United Nations A/HRC/32/36/Add.3

General Assembly

Distr.: General
17 June 2016

English/French/Spanish only

Human Rights Council
Thirty-second session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association

Addendum

Observations on communications transmitted to Governments and replies received*

* Reproduced as received.

GE.16-10146(E)
1610146

Please recycle

Contents

		Page
I.	Introduction	5
II.	Summary	5
III.	Africa region	6
	Angola	7
	Burundi	8
	Cameroon	10
	Congo (the Republic of)	10
	Democratic Republic of Congo	11
	Djibouti	13
	Ethiopia	14
	Guinea	16
	Kenya	17
	Mauritania	18
	Rwanda	19
	Sierra Leone	20
	South Sudan	20
	Sudan	21
	Swaziland	22
	Uganda	23
	Zambia	24
	Zimbabwe	25
IV.	Americas region	26
	Brazil	26
	Canada	27
	Chile	28
	Columbia	29
	Ecuador	30
	El Salvador	31
	Honduras	31
	Mexico	33
	Nicaragua	34
	Peru	36
	Venezuela (Bolivarian Republic of)	37

V. Asia Pacific region 39
Afghanistan 39
Australia 40
Bangladesh 41
Cambodia 42
China (People's Republic of) 44
India 45
Indonesia 47
Iran (Islamic Republic of) 48
Japan 49
Lao People's Democratic Republic 49
Malaysia 50
Myanmar 51
Nepal 52
Pakistan 53
Philippines (the) 54
Republic of Korea 55
Singapore 55
Thailand 56
Viet Nam 57
VI. Middle East and North Africa region 58
Algeria 59
Bahrain 60
Egypt 61
Israel 64
Kuwait 65
Morocco 66
Oman 67
Saudi Arabia 68
Tunisia 69
VII. Europe and Central Asia Region 69
Armenia 70
Azerbaijan 70
France 71
Italy 72
Kazakhstan 73

Kyrgyz Republic 74
Moldova (Republic of) 77
Montenegro 77
Norway 78
Russia Federation 78
The Former Yugoslav Republic of Macedonia 80
United Kingdom of Great Britain and Northern Ireland 81
Uzbekistan 82
VIII. Other 83

I. Introduction

1. The present document is submitted by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolution 24/5. The document provides observations on the communications addressed by the Special Rapporteur to States, and on the replies received.

2. In the present addendum, the Special Rapporteur provides observations, on communications sent to States between 1 March 2015 and 29 February 2016. This report further contains observations on responses to the aforementioned communications received from States until 30 May 2016. The addendum also includes press releases issued between 1 May 2015 and 30 April 2016. Communications sent, responses received and press releases during the reporting period are accessible electronically through hyperlinks to the relevant reports below. The Special Rapporteur is aware of responses received after the reporting deadline that could not be reflected in the present report. He takes this opportunity to highlight the importance of timely replies.

3. For ease of reference, cases have been grouped by region, with countries within each region listed alphabetically according to their names in English. Each communication is referenced as an urgent appeal (UA), joint urgent appeal (JUA), allegation letter (AL), joint allegation letter (JAL), or other letter (OL), followed by the date the communication was issued, the case number and the date of the State reply. Press releases (PR) published during the reporting period are referenced below the communications in chronological order.

4. The communications and the relevant replies can also be accessed via the incorporated links or in the communications reports of Special Procedures:[1] A/HRC/30/27 (communications sent from 1 March 2015 to 31 May 2015 and replies received from 1 May 2015 to 31 July 2015), A/HRC/31/79 (communications sent from 1 June 2014 to 30 November 2015 and replies received from 1 August 2015 to 31 January 2016), and A/HRC/32/53 (communications sent from 1 December 2015 and 28 February 2016 and replies received between 1 February 2016 and 30 April 2016).

5. The Special Rapporteur is grateful to all States that have transmitted responses to communications sent. He considers response to his communications an important part of cooperation by States with his mandate. In this context, the Special Rapporteur recalls paragraph 6 of the Human Rights Council resolution 24/5 that calls upon States "to continue to cooperate fully with and assist him in the performance of his mandate [and] to respond promptly to his urgent appeals and other communications…" Therefore, he urges all States which have not yet replied to his communications to do so without further delay.

II. Summary

6. Between 1 March 2015 and 29 February 2016, the Special Rapporteur sent 158 communications to 70 States. Of these communications, 65 were urgent appeals, 93 were allegation and other letters. A total of 57 cases consisted of follow-ups of cases that were previously the subject of communications.

7. Examined by region, the figures show that 32 communications were addressed to countries in the Africa region (20 per cent), 29 to countries in the Americas region (19 per cent), 47 in the Asia-Pacific region (30 per cent), 23 in the Middle East and North Africa region (15 per cent), and 25 in the Europe and Central Asia region (16 per cent).

[1] http://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx.

8. During the reporting period, there was an average response-rate of 58 per cent to the Special Rapporteur's communications. While certain replies were merely acknowledgements or receipt, the Special Rapporteur wishes to thank countries who have fully engaged and cooperated with the Special Procedures mechanisms and provided detailed information in response to the allegations addressed therein.

III. Africa region

9. During the present reporting period, the Special Rapporteur sent 31 communications to 18 countries in the Africa region.

10. The Special Rapporteur is concerned about the alarming shrinking of the space occupied by the civil society and human rights defenders, having an increasing difficulty to exercise their rights to peaceful assembly and associations, as well as their right to freedom of expression. He is worried that the context of the numerous elections to be held on the continent in the coming months may lead to an escalation of violence, including in the context of peaceful protests, and to put civil society at a major risk.

11. The Special Rapporteur expresses his concern regarding security considerations having the effect of curtailing the rights of peaceful assembly and association. He notes that many States in the African region have used excessive violence to curb peaceful protests, notably in the context of elections. The Special Rapporteur considers as a best practice the presumption in favour of holding peaceful assemblies and that the enjoyment of the right to hold and participate in peaceful assemblies entails the fulfilment by the State of its positive obligation to facilitate the exercise of this right (A/HRC/20/27). He recalls that the ability to assemble and act collectively is vital to democratic, economic, social and personal development, to the expression of ideas and to fostering engaged citizenry (A/HRC/31/66). Assemblies can make a positive contribution to the development of democratic systems and, alongside elections, play a fundamental role in public participation, holding governments accountable and expressing the will of the people as part of the democratic processes.

12. Similarly, the Special Rapporteur is dismayed about the adoption of laws that unduly restrict the rights to peaceful assembly and association. The Special Rapporteur reminds States of their obligation to ensure a conducive environment for the free exercise of the rights of peaceful assembly and association, rights enshrined in the International Covenant on Civil and Political Rights. He also restates that, according to this same Covenant, only a very limited number of restrictions to these rights may apply, which must meet the strict necessity and proportionality test.

13. Furthermore, he is disappointed to note that some Governments fail to see associations, and in particular human rights associations, as crucial partners for both good governance and the strengthening of functioning democracies. He emphasizes that while States do not have to agree with the opinions and criticism expressed by persons espousing minority or dissenting views or beliefs, they have a positive obligation to ensure the existence of an enabling environment for civil society, including the enjoyment of the right of association, so that it may exist, operate and express itself freely and without fear (A/HRC/20/27, paragraph 63). He urges authorities to implement all necessary measures to protect people exercising their right to freedom of association and peaceful assembly against threats, violence, intimidation or reprisals.

14. Finally, the Special Rapporteur recalls that he stands ready to provide technical assistance to ensure that States' normative frameworks and practices comply with international human rights norms and standards governing freedoms of association and assembly.

Angola

15. JUA 28/09/2015. Case no: AGO 2/2015. State reply: None. Allegations of arbitrary arrest and detention of a human rights defender as well as charges brought against him, and the alleged arbitrary arrest and detention of a human rights lawyer and his client

16. JUA 23/10/2015. Case no: AGO 3/2015. State reply: 11/12/2015. Allegations of arbitrary arrest and detention of fourteen human rights activists and a member of the National Air Force as well as charges brought against them and two other human rights activists who remain at liberty.

Observations

Responses to communications

17. The Special Rapporteur thanks the Government of Angola for its response dated 11 December 2015. He trusts he will soon receive a response to the questions raised in the communication sent on 28 September 2015, in conformity with the requirement of Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) to fully cooperate with the mandate.

18. The Special Rapporteur is taking note of the answer provided by the Government regarding communication AGO 3/2015, stating that the 17 individuals arrested are in custody for crimes of rebellion and of crimes of preparatory acts to practice rebellion. He urges the Government to reply to his communication regarding the alleged arbitrary arrest and detention of Mr. José Marcos Mavungo, and the charges of "sedition" and "rebellion" brought against him, as well as the alleged arbitrary arrest and detention of Mr. Arão Bula Tempo and Mr. Manuel Biongo (AGO 2/2015).

19. The Special Rapporteur reiterates his serious concerns regarding both communications alleging arbitrary arrests and detentions against several individuals, charges brought against them, and the fact that the judicial proceedings seemed to be aimed at preventing these individuals from peacefully exercising their legitimate human rights activities, including their rights to freedom of expression and peaceful assembly. He reiterates his concern at the apparent use of criminal law proceedings to silence non-violent dissenting voices and criticism of the Government in theses communications. Finally, he insists on the critical health situation of Mr. Henrique Luaty da Silva Beirão (AGO 3/2015), as well as of Mr. Mavungo and Mr. Tempo (AGO 2/2015).

20. He reminds the Government of its obligation to ensure that human rights defenders in Angola can carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort, including excessive use of force. Moreover, he urges the State to take all necessary steps to secure the rights to freedom of peaceful assembly and association as per articles 21 and 22 of the International Covenant on Civil and Political Rights acceded by Angola on10 January 1992.

21. He also takes this opportunity to recall the observations of the Human Rights Committee that call upon the State to, inter alia, "refrain from prosecuting journalists, human rights defenders and other civil society actors as a means of deterring or discouraging them from freely expressing their opinions" and to "ensure that the exercise of the right to peaceful assembly is not subject to restrictions other than the ones permissible under the Covenant" (CCPR/C/KHM/CO/2, paragraphs 21b and 22).

Country visit

22. The Special Rapporteur reminds the Government of his pending request to visit Angola, as indicated by his letter sent in 2013. He trusts that such a visit would allow him

to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Burundi

23. JUA 30/04/2015. Case no: BDI 3/2015. State reply: 04/05/2015. Allégations relatives à l'usage excessif de la force par la police contre des manifestants qui aurait entrainé la mort de plusieurs d'entre eux, ainsi qu'à l'arrestation de plus de 200 manifestants, à la suspension de l'émission de plusieurs radios et à l'arrestation et détention provisoire d'un défenseur des droits de l'homme.

24. JUA 13/11/2015. Case no: BDI 5/2015. State reply: 07/01/2016 and 29/01/2016. Allégations de violations du droit à la vie et des libertés d'expression, de réunion et d'association pacifique ainsi que de cas de torture.

25. JAL 20/11/2015. Case no: BDI 6/2015. State reply: None. Allégations de déclarations de vol auprès d'Interpol, de passeports appartenant à des défenseurs des droits de l'homme, des militants et des opposant Dijboutis politiques, dans le but de restreindre leurs activités légitimes.

26. JUA 07/12/2015. Case no: BDI 7/2015. State reply: None. Allégations de violations des droits à la liberté d'association et liberté d'opinion et expression de plusieurs associations ainsi que le directeur d'un journal indépendant au Burundi.

27. JUA 18/02/2016. Case no. BDI 3/2016. State reply: None. Allégations de disparition forcée d'une femme défenseur des droits de l'homme.

28. PR 30/04/2015 « La jeune démocratie du Burundi mise à risque par les violences pré-électorales, préviennent des experts de l'ONU »

29. PR 16/07/2015 "Burundi: UN experts call for determined Security Council action to prevent mass violence in the Great Lakes region"

30. PR 13/11/2015 « Des experts de l'ONU se félicitent de l'appel du Conseil de Sécurité sur le Burundi et exhortent à des actions concrètes »

Observations

Réponses aux communications

31. Le Rapporteur spécial remercie le Gouvernement des informations fournies en réponse à ses communications du (BDI 3/2015) et du (BDI 5/2015). Le Rapporteur spécial regrette ne pas avoir reçu de réponse à ses communications BDI 6/2015, BDI 7/2015, BDI 3/2016. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des Gouvernements avec son mandat, selon les résolutions du Conseil des droits de l'homme 24/5 (2013), 21/16 (2012) et 15/21 (2010), et invite de ce fait les autorités à fournir aussi tôt que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

32. Le Rapporteur spécial note la réponse du Gouvernement dans le cadre de sa communication BDI 3/2015 qui justifie l'intervention de la police dans les manifestations pour des raisons d'insécurité et de troubles à l'ordre public. Il prend également note du fait que les autorités affirment qu'aucune exécution ou arrestation arbitraire par les forces de

police n'a été enregistrée et que des enquêtes ont été ouvertes en ce qui concerne les décès considérés (communication BDI 5/2015). Il invite les autorités burundaises à communiquer les résultats des procédures judiciaires menées ainsi que de faire part des développements relatifs à la loi susmentionnée. Par ailleurs, il accueille favorablement l'élaboration d'un projet de loi relatif à la protection des défenseurs des droits de l'homme.

33. Le Rapporteur spécial reste très préoccupé par la situation du droit à la liberté d'association et de réunion pacifique, ainsi que de la situation de la liberté d'expression, au Burundi, en particulier depuis la tenue des élections en avril 2015. Il regrette l'interdiction de plus en plus fréquente de réunions pacifiques et les atteintes massives à la liberté d'association (7/2015) pour les organisations non soutenues par le Gouvernement (A/HRC/31/55/Add.2). Il exprime de graves préoccupations quant à l'usage disproportionné de la force au cours des manifestations (BDI 3/2015) ainsi que les cas d'exécutions arbitraires et de torture (BDI 5/2015), mais aussi de disparitions forcées (BDI 3/2016) de défenseurs des droits de l'homme, journalistes et opposants au pouvoir. Le Rapporteur spécial s'inquiète du fait que les pouvoirs publics tentent de restreindre la liberté d'expression en accusant les voix discordantes d'être au service de l'opposition dès lors qu'ils rapportent des faits ou des témoignages mettant en cause les institutions de l'État (A/HRC/31/55/Add.2).

34. Le Rapporteur spécial souligne que l'exercice du droit d'organiser des réunions pacifiques et d'y participer suppose que l'État respecte l'obligation qui lui incombe de faciliter l'exercice de ce droit. Cela suppose une présomption de la part des autorités que la réunion sera pacifique, que les États ont l'obligation positive de protéger activement les réunions pacifiques, notamment des agents provocateurs et que les États ont également l'obligation négative de ne pas entraver indûment le droit de réunion pacifique.

35. En ce qui concerne les allégations d'arrestations arbitraires, le Rapporteur spécial estime que l'exercice des libertés fondamentales ne devrait pas être soumis à l'autorisation préalable des autorités, mais tout au plus à une procédure de notification préalable, ayant pour raison d'être de permettre aux autorités publiques de faciliter l'exercice du droit de réunion pacifique et de prendre des mesures pour protéger la sécurité et l'ordre publics et les droits et libertés du reste de la population. Lorsque les organisateurs négligent de présenter une notification aux autorités, la réunion ne devrait pas être automatiquement dispersée et les organisateurs ne devraient pas faire l'objet de sanctions pénales ou administratives assorties d'amendes ou de peines d'emprisonnement. Cela est d'autant plus important dans le cas des réunions spontanées, lorsque les organisateurs ne peuvent pas se soumettre à l'obligation de notification préalable ou lorsqu'il n'y a pas d'organisateur ou, du moins, d'organisateur connu (A/HRC/20/27).

36. Plus généralement, le Rapporteur spécial souhaite faire référence au rapport conjoint qu'il a co-écrit avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires sur la bonne gestion des rassemblements (A/HRC/31/66). Ce rapport contient de nombreuses recommandations qui sont particulièrement pertinentes quant à la situation au Burundi.

37. Le Rapporteur spécial appelle les autorités à prendre toutes les mesures adéquates, notamment de nature législatives, pour assurer que les citoyens puissent exercer leurs droits à la liberté d'association et de réunion pacifique dans un environnement favorable leur permettant de mener à bien leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

Cameroon

38. JAL 27/04/2015. Case no. CMR 1/2015. State reply: None. Allégations de menaces et campagne de dénigrement contre deux femmes défenseures des droits de l'homme.

Observations

Réponse à la communication

39. Le Rapporteur spécial regrette ne pas avoir reçu de réponse à sa communication datée du 27 avril 2015. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat, selon les résolutions du Conseil des droits de l'homme 24/5 (2013), 21/16 (2012) et 15/21 (2010) et invite de ce fait les autorités à fournir dès que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

40. Le Rapporteur spécial réitère ses préoccupations quant aux menaces et à la campagne de dénigrement contre Mme Ngo Mbe et Mme Nkom et contre leur association REDHAC qui semblent être liées à leurs activités de défense des droits de l'homme et en particulier des droits des personnes lesbiennes, gays, bisexuelles et transgenres (LGBT).

41. Le Rapporteur spécial souhaite attirer l'attention du Gouvernement sur les articles 19 et 22 du Pacte International relatif aux droits civils et politiques (PIDCP) que le Cameroun a ratifié le 27 juin 1984, qui protègent, respectivement, le droit à la liberté d'opinion et d'expression et le droit de s'associer librement avec d'autres. Il réitère les dispositions de la résolution 24/5 du Conseil des droits de l'homme qui « rappelle aux États leur obligation de respecter et de protéger pleinement le droit de tous les individus … de s'associer librement … y compris les personnes qui professent des opinions ou des croyances minoritaires ou dissidentes, les défenseurs des droits de l'homme, … et tous ceux … qui cherchent à exercer ou à promouvoir ce droit…».

42. Plus généralement, le Rapporteur spécial souhaite faire référence au rapport conjoint qu'il a co-écrit avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires sur la bonne gestion des rassemblements (A/HRC/31/66). Ce rapport contient de nombreuses recommandations qui sont particulièrement pertinentes quant à la situation dans le pays.

43. Le Rapporteur spécial appelle les autorités à prendre toutes les mesures adéquates, notamment de nature législatives, pour assurer que les citoyens puissent exercer leurs droits à la liberté d'association et de réunion pacifique dans un environnement favorable leur permettant de mener à bien leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

Congo (the Republic of)

44. JAL 09/12/2015. Case no. COG 2/2015. State reply: 11/12/2015; 08/02/2016 ; 02/03/2016 ; 04/04/2016. Allégations quant aux arrestations d'opposants politiques, de restrictions indues du droit de réunion pacifique et d'usage excessif de la force dans le cadre de plusieurs manifestations, en majorité pacifiques, contre le référendum constitutionnel du 25 octobre 2015 proposé par le président congolais actuel.

Observations

Réponse à la communication

45. Le Rapporteur spécial remercie le Gouvernement des informations fournies en réponse à sa communication du 9 décembre 2015 (COG 2/2015).

46. Le Rapporteur spécial souligne dans un premier temps qu'un usage disproportionné de la force semble avoir été adopté dans le cadre de ces manifestations, ayant eu pour conséquence le décès de plusieurs individus. Il rappelle que l'usage de la force au cours des réunions publiques ne doit être utilisé qu'en cas de circonstances exceptionnelles et doit faire l'objet d'un test de proportionnalité (A/HRC/20/27). Par ailleurs, le Rapporteur spécial reste fortement préoccupé par la situation de celles et ceux exerçant leurs droits à la liberté d'expression et de réunion pacifique dans la République du Congo ainsi que par les violences qui ont persisté à la suite des élections. Le Haut-Commissaire aux droits de l'homme a récemment publié un communiqué de presse le 13 avril 2016 dans lequel il souligne des rapports très alarmants, depuis les élections présidentielles du 20 mars, faisant état de violentes opérations de sécurité menées contre des chefs de l'opposition et leurs partisans. Des informations indiquent également des cas d'arrestations massives et de torture en détention, ainsi que du meurtre et du déplacement de personnes originaires du Pool. Le Rapporteur spécial souligne enfin que la jouissance du droit d'organiser des réunions pacifiques et d'y participer suppose que l'État respecte l'obligation qui lui incombe de faciliter l'exercice de ce droit. Cela suppose une présomption de la part des autorités que la réunion est pacifique, que les États ont l'obligation positive de protéger activement les réunions pacifiques, notamment des agents provocateurs, et que les États ont également l'obligation négative de ne pas entraver indûment le droit de réunion pacifique.

47. En ce qui concerne les allégations d'arrestations arbitraires justifiées par l'absence de notification sur les manifestations, le Rapporteur spécial estime que l'exercice des libertés fondamentales ne devrait pas être soumis à l'autorisation préalable des autorités, mais tout au plus à une procédure de notification préalable, ayant pour raison d'être de permettre aux autorités publiques de faciliter l'exercice du droit de réunion pacifique et de prendre des mesures pour protéger la sécurité et l'ordre publics et les droits et libertés du reste de la population. Lorsque les organisateurs négligent de présenter une notification aux autorités, la réunion ne devrait pas être automatiquement dispersée et les organisateurs ne devraient pas faire l'objet de sanctions pénales ou administratives assorties d'amendes ou de peines d'emprisonnement. Cela est d'autant plus important dans le cas des réunions spontanées, lorsque les organisateurs ne peuvent pas se soumettre à l'obligation de notification préalable ou lorsqu'il n'y a pas d'organisateur ou, du moins, d'organisateur connu (A/HRC/20/27).

48. Il appelle les autorités à prendre toutes les mesures adéquates, notamment de nature législatives, pour assurer que les citoyens puissent exercer leurs droits à la liberté d'association et de réunion pacifique dans un environnement favorable leur permettant de mener à bien leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

Democratic Republic of Congo

49. JUA 16/06/2015. Case no. COD 3/2015. State reply: None. Allégations concernant la détention arbitraire et incommunicado d'un défenseur des droits de l'homme et les mauvaises conditions de sa détention.

50. JUA 30/11/2015. Case no. COD 4/2015. State reply: None. Allégations de détention arbitraire de deux défenseurs des droits de l'homme.

51. JAL 10/12/2015. Case no. COD 5/2015. State reply: 29/01/2016; 11/02/2016 ; 02/03/2016. Allégations de violations du droit à la vie.

52. JUA 16/02/2016. Case no. COD 1/2016. State reply: None. Allégations quant à l'arrestation et la détention arbitraire de neuf personnes dont deux défenseurs des droits de l'homme.

Observations

Réponses aux communications

53. Le Rapporteur spécial remercie le Gouvernement des informations fournies en réponse à sa communication du 10 décembre 2015 (COD 5/2015). Le Rapporteur spécial regrette néanmoins ne pas avoir reçu de réponse à ses autres communications COD 3/2015, COD 4/2015 et COD 1/2016. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat, selon les résolutions du Conseil des droits de l'homme 24/5 (2013), 21/16 (2012) et 15/21 (2010), et invite de ce fait les autorités à fournir aussi tôt que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

54. Le Rapporteur spécial a pris note des éléments de réponse fournis par le Gouvernement en date du 29 janvier 2016, qui soutiennent notamment que les corps retrouvés dans la fosse commune ne seraient pas ceux des individus mentionnés dans la communication COD 5/2015. Le Rapporteur spécial appelle les autorités à fournir davantage d'explications aux fait allégués dans sa communication COD 5/2015, mais aussi à fournir des éléments de réponse à ses autres communications.

55. Eu égard à la gravité des allégations portées à son attention, il se dit fortement préoccupé par la situation du droit à la vie, à la liberté d'expression, au droit à la liberté d'association et de réunion pacifique en République Démocratique du Congo qui semble s'être aggravée ces derniers temps. En particulier, il constate avec une vive préoccupation que les défenseurs des droits de l'homme sont souvent exposés à la détention arbitraire, ainsi qu'à des menaces et attaques des forces de sécurité gouvernementales, des forces de police et de groupes armés. Il se dit vivement préoccupé au regard des allégations de mauvais traitement que certains d'entre eux auraient subis lors de ces arrestations qui semblent être directement liées à leurs activités légitimes et pacifiques en faveur de la défense des droits de l'homme et à l'exercice de leur droit à la liberté d'opinion et d'expression. Le Rapporteur spécial se dit particulièrement préoccupé en ce qui concerne l'intégrité physique et mentale de M. Fred Bauma Winga (COD 3/2015), de M. Christopher Ngoyi Mutamba et de M. Yves Makwambala (COD 4/2015), ainsi que de neuf défenseurs des droits de l'homme (M. Juvin Kombi et M. Pascal Byumanine, membres de la Lutte pour le Changement (LUCHA) ainsi que M. Innocent Fumbu, M. Saïdi Wetemwami Heshima, M. Gervais Semunda Rwamakuba, M. Nelson Katembo Kalindalo, M. Jonathan Kambale Muhasa, M. Osée Kakule Kilala et M. Jojo Semivumbi) arrêtés lors d'une manifestation pacifique organisée à Goma par LUCHA (COD 1/2016) qui auraient été placé en détention après leur arrestation et seraient actuellement détenus dans des conditions carcérales difficiles.

56. Il exhorte les autorités à prendre toutes les mesures nécessaires pour assurer que les individus, et plus spécifiquement tous les défenseurs des droits de l'homme, puissent exercer librement leurs droits à la liberté d'association et de réunion pacifique sans risque d'être exposés à des menaces, représailles, arrestations et détentions arbitraires, intimidations ou actes de harcèlement.

57. Le Rapporteur spécial recommande aux autorités de prendre des mesures positives afin de favoriser l'exercice de la liberté d'association et de réunion pacifique de la société

civile, y compris des membres d'associations non-enregistrées et des syndicalistes, et de s'assurer que ceux-ci ne sont pas soumis ou menacés d'être soumis à des faits de discrimination, de menace, de recours à la violence, d'harcèlement, de persécution, d'intimidation ou de représailles (A/HRC/20/27).

58. Le Rapporteur spécial rappelle les dispositions de la résolution 24/5 du Conseil des droits de l'homme selon lesquelles les États ont l'obligation « de respecter et de protéger pleinement le droit de tous les individus de se réunir pacifiquement et de s'associer librement, à la fois en ligne et hors ligne, notamment à l'occasion des élections, y compris les personnes qui professent des opinions ou des croyances minoritaires ou dissidentes, les défenseurs des droits de l'homme, les syndicalistes et tous ceux, notamment les migrants, qui cherchent à exercer ou à promouvoir ce droit, ainsi que leur obligation de faire en sorte que les restrictions éventuellement imposées au libre exercice du droit de réunion pacifique et de la liberté d'association soient conformes aux obligations qui leur incombent en vertu du droit international des droits de l'homme ».

59. Plus généralement, le Rapporteur spécial souhaite faire référence au rapport conjoint qu'il a co-écrit avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires sur la bonne gestion des rassemblements (A/HRC/31/66). Ce rapport contient de nombreuses recommandations qui sont particulièrement pertinentes quant à la situation dans le pays.

60. Le Rapporteur spécial appelle les autorités à prendre toutes les mesures adéquates, notamment de nature législatives, pour assurer que les citoyens puissent exercer leurs droits à la liberté d'association et de réunion pacifique dans un environnement favorable leur permettant de mener à bien leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

Djibouti

61. JUA 02/10/2015. Case no. DJI 1/2015. State reply: 22/10/2015. Allégations quant à l'arrestation et la détention arbitraire de six personnes membres ou sympathisants de groupes de l'opposition politique.

62. JUA 29/12/2015. Case no. DJI 2/2015. State reply: 11/01/2016. Allégations concernant l'usage excessif et de manière indiscriminée de la force par les forces de sécurité dans le cadre d'affrontements entre des manifestants et les autorités

63. JUA 02/02/2016. Case no. DJI 1/2016. State reply: None. Allégations de condamnation et détention arbitraire d'un défenseur des droits de l'homme.

Observations

Réponses aux communications

64. Le Rapporteur spécial remercie le Gouvernement des informations fournies en réponse à ses communications DJI 1/2015 et DJI 2/2015. Le Rapporteur spécial regrette néanmoins ne pas avoir reçu de réponse à sa dernière communication DJI 1/2016. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des Gouvernements avec son mandat, selon les résolutions du Conseil des droits de l'homme 24/5 (2013), 21/16 (2012) et 15/21 (2010) et invite de ce fait les autorités à fournir aussi tôt que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

Environnement dans lequel les droits sont exercés

65. Le Rapporteur spécial se félicite de la libération des six détenus mentionnés dans sa communication DJI 1/2015. Il note également l'adoption d'un décret destiné à la mise en place de mesures d'urgence dans le cadre des menaces terroristes.

66. Le Rapporteur spécial exprime néanmoins ses préoccupations quant à l'usage excessif de la force au cours de manifestations, ainsi que les violations du droit à la vie, mais aussi les détentions arbitraires qui se sont produites. Il rappelle que l'usage de la force au cours des réunions publiques ne doit être utilisé qu'en cas de circonstances exceptionnelles et doit faire l'objet d'un test de proportionnalité (A/HRC/20/27). En ce qui concerne la lutte légitime contre le terrorisme et d'autres considérations relatives à la sécurité qui servent souvent de prétexte pour justifier l'adoption de l'état d'urgence ou d'autres règles plus strictes pour supprimer le droit de réunion pacifique et la liberté d'association, des décrets d'exception sont souvent été utilisés pour réprimer les libertés de réunion pacifique, d'association et d'expression (A/HRC/20/27). A cet effet, le Rapporteur spécial sur la promotion et la protection des droits de l'homme et des libertés fondamentales dans la lutte antiterroriste a souligné dans un rapport à l'Assemblée générale que « les États ne devraient pas avoir besoin de recourir à des mesures de dérogation dans le domaine de la liberté de rassemblement et d'association [et que les] mesures limitatives prévues par le Pacte international relatif aux droits civils et politiques [étaient] suffisantes dans une lutte efficace contre le terrorisme» (A/61/267, par. 53).

67. Le Rapporteur spécial recommande aux autorités de prendre des mesures positives afin de favoriser l'exercice de la liberté d'association et de réunion pacifique de la société civile, y compris des membres d'associations non enregistrées et syndicalistes, et de s'assurer que ceux-ci ne sont pas soumis ou menacés d'être soumis à des faits de discrimination, de menace, de recours à la violence, d'harcèlement, de persécution, d'intimidation ou de représailles (A/HRC/20/27).

68. Plus généralement, le Rapporteur spécial appelle les autorités à prendre toutes les mesures adéquates, notamment de nature législatives, pour assurer que les citoyens puissent exercer leurs droits à la liberté d'association et de réunion pacifique dans un environnement favorable leur permettant de mener à bien leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

Visite du pays

69. Le Rapporteur spécial rappelle au Gouvernement ses demandes envoyées au Gouvernement en 2011 et 2013, auxquelles aucune réponse n'a encore été reçue. Il pense qu'une telle visite permettrait de discuter les possibilités d'une assistance technique dont il pourrait avoir besoin.

Ethiopia

70. JUA 21/10/2015. Case no. ETH 4/2015. State reply: None. Enforced disappearance, detention and trumped-up charges against three human rights defenders.

71. JUA 28/12/2015. Case no. ETH 5/2015. State reply: None. Allegations of brutal and violent repression of peaceful protests.

72. PR 10/07/2015 "Release of five Ethiopian journalists is a positive step, but others remain in detention – UN expert"

73. PR 21/01/2016 "UN experts urge Ethiopia to halt violent crackdown on Oromia protesters, ensure accountability for abuses"

Observations

Responses to communications

74. The Special Rapporteur regrets that, to date, no reply has been received to his communications. He recalls that responses to his communications are an important part of the cooperation of the Government of Ethiopia with his mandate, and urges the authorities to comply with Human Rights Council resolutions on the rights to freedom of peaceful assembly and of association. These resolutions call on States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications.

75. The Special Rapporteur reiterates his deepest concern regarding the violent repression of peaceful protests against the "Addis Ababa Integrated Development Master Plan" in the Oromia region since mid-November 2015, which has reportedly led to the killing of hundreds of people and numerous injured protesters, as well as the lack of investigation against the use of violence by the police and security forces, and the alleged arrest, detention and disappearances of several protesters labelled as "terrorists" (ETH 5/2015). He urges the authorities to undertake a thorough and independent investigation into these cases, hold the perpetrators accountable, and provide remedies to the victims and families of victims. He notes with great concern the report of Human Rights Watch issued on 15 June 2016 according to which "Ethiopian security forces have killed more than 400 protesters and others, and arrested tens of thousands more during widespread protests in the Oromia region since November 2015" (https://www.hrw.org/news/2016/06/15/ethiopia-protest-crackdown-killed-hundreds).

76. Further concern is expressed at the charges brought against Messrs. Okwoy, Astin and Hojole, which appear to be directly linked to their legitimate and peaceful work in defense of human rights and to their peaceful exercise of their rights to freedom of opinion and expression and to freedom of peaceful assembly and association (ETH 4/2015).

77. The Special Rapporteur urges the authorities to inform him at the earliest of the results of the investigations undertaken into the killings that occurred during the protests. He emphasizes that the right to life should be guaranteed by States to all individuals under all circumstances and at all times, including in the context of the exercise of the rights to freedom of association and of peaceful assembly, as prescribed by article 3 of the Universal Declaration of Human Rights. He further urges the Government to provide legal grounds for the arrest and detention of the three aforementioned human rights defenders.

78. The Special Rapporteur recalls that Ethiopia has ratified the International Covenant on Civil and Political Rights (ICCPR) on 11 June 1993, which enshrines the rights to freedom of expression and opinion and freedom of peaceful assembly and association as set forth respectively in articles 19, 21 and 22 of the Covenant. He reminds again to the authorities of Ethiopia that protestors seek to convey opinions and, very often, challenge norms, and insists that while the State does not have to agree with the opinions and criticisms expressed by people who embrace different convictions or beliefs. The State has a positive obligation to ensure a conducive environment for the free exercise of these rights enshrined in the Covenant, in particular, for civil society activists to operate freely and without fear (A/HRC/20/27, paragraph 63).

79. More generally, the Special Rapporteur wishes to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is highly relevant to the situation in the country.

Anti-Terrorism Proclamation 652/2009

80. The Special Rapporteur reiterates his concerns pertaining to the application of the Anti-Terrorism Proclamation 652/2009, which have been mentioned in several previous communications from special procedures mandate holders since its implementation in 2009 and has been the subject of a press release on 18 September 2014. In relation to the measures and legislation in force aiming at countering terrorism, in his first thematic report to the Human Rights Council, the Special Rapporteur on the rights to freedom of peaceful assembly and of association called upon States to "strictly and narrowly define the offence of terrorism in line with international law" and to ensure that any restrictions on the rights to freedom of peaceful assembly and of association are prescribed by law, which is necessary in a democratic society, and proportionate to the objective pursued, and do not harm the principles of pluralism, tolerance and broadmindedness. Therefore, any restrictions should be subject to an independent, impartial, and prompt judicial review (A/HRC/20/27, paragraph 84 (d) and (e)). On different occasions, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has stressed in a report to the General Assembly that "States should not need to resort to derogation measures in the area of freedom of assembly and association. Instead, limitation measures, as provided for in ICCPR, are sufficient in an effective fight against terrorism" (A/61/267, para. 53).

Country visit

81. The Special Rapporteur reminds the Government of Ethiopia of his country visit requests sent in 2011 and 2013, to which a response is yet to be received. He trusts that such a visit would allow him to examine in situ issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

Guinea

82. JUA 29/10/2015. Case no. GIN 3/2015. State reply: None. Allégations quant à l'arrestation et la détention arbitraire d'un défenseur des droits de l'homme et leader syndical à Conakry.

Observations

Réponse à la communication

83. Le Rapporteur spécial regrette ne pas avoir reçu de réponse à sa communication datée du 29 octobre 2015. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat, selon les résolutions du Conseil des droits de l'homme 24/5 (2013), 21/16 (2012) et 15/21 (2010) et invite de ce fait les autorités à fournir aussi tôt que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

84. Le Rapporteur spécial reste préoccupé par les allégations de détention arbitraire de M. Jean Dougou Guilavogui, mais aussi par celles relatives aux mauvaises conditions de sa détention particulièrement inquiétantes eu égard à son état de santé. Il demeure également vivement préoccupé par le fait que l'arrestation de M. Jean Dougou Guilavogui puisse avoir un effet dissuasif et intimidant pour les autres militants associatifs et politiques en Guinée.

85. Le Rapporteur Spécial demande aux autorités de fournir à M. Jean Dougou Guilavogui une assistance médicale adéquate et de justifier des bases légales ayant permis de le maintenir en détention. Il exhorte les autorités à prendre toutes les mesures nécessaires pour assurer que celui-ci, et plus généralement, tous les défenseurs des droits de l'homme, puissent exercer librement leur droit à la liberté d'association et de réunion pacifique sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

86. Le Rapporteur spécial rappelle les dispositions de la résolution 24/5 du Conseil des droits de l'homme selon lesquelles les États ont l'obligation « de respecter et de protéger pleinement le droit de tous les individus de se réunir pacifiquement et de s'associer librement, à la fois en ligne et hors ligne, notamment à l'occasion des élections, y compris les personnes qui professent des opinions ou des croyances minoritaires ou dissidentes, les défenseurs des droits de l'homme, les syndicalistes et tous ceux, notamment les migrants, qui cherchent à exercer ou à promouvoir ce droit, ainsi que leur obligation de faire en sorte que les restrictions éventuellement imposées au libre exercice du droit de réunion pacifique et de la liberté d'association soient conformes aux obligations qui leur incombent en vertu du droit international des droits de l'homme. »

87. Plus généralement, le Rapporteur spécial appelle les autorités à prendre toutes les mesures adéquates, notamment de nature législatives, pour assurer que les citoyens puissent exercer leurs droits à la liberté d'association et de réunion pacifique dans un environnement favorable leur permettant de mener à bien leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

Kenya

88. JAL 20/04/2015. Case no. KEN 2/2015. State reply: None. Allegations concerning the freezing of the bank accounts of two non-governmental organizations.

Observations

Response to communication

89. The Special Rapporteur regrets that, to date, no reply has been received to his communication KEN 2/2015. He recalls that responses to his communications are an important part of the cooperation of the Government of Kenya with his mandate, and urges the authorities to comply with Human Rights Council resolutions on the rights to freedom of peaceful assembly and of association. These resolutions, including resolution 24/5 (2013), call on States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications.

90. The Special Rapporteur remains concerned about the fact that MUHURI and HAKI Africa have been unable to access their funds in their bank accounts, as a result of the inclusion of these organizations in an official list of entities suspected to be associated with Al-Shabaab. The Special Rapporteur reiterates his concern about the fact that MUHURI and HAKI Africa may have had their bank accounts frozen as a result of their peaceful and legitimate human rights activities in Kenya. The Special Rapporteur urges the Government to provide detailed information concerning the grounds for including both associations on the list of entities suspected to be associated with Al-Shabaab.

91. He recalls that the ability for associations to access funding and resources is an integral and vital part of the right to freedom of association. In this regard, in his second thematic report, he called upon States to "ensure that associations – registered and unregistered – can seek, receive and use funding and other resources from natural and legal persons, whether domestic, foreign or international, without prior authorization or other

undue impediments, including from individuals; associations, foundations or other civil society organizations; foreign Governments and aid agencies; the private sector; the United Nations and other entities" (A/HRC/23/39, para. 82(b)).

92. More generally, the Special Rapporteur reminds the Government of Kenya of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or threats of any sort. He also wishes to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is particularly relevant to the situation in the country.

Country visit

93. The Special Rapporteur regrets that the Government of Kenya never provided a response to his letter proposing specific dates for a visit to the country during the second half of March 2016. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Mauritania

94. JAL 07/08/2015. Case no. MRT 3/2015. State reply: None. Allégations relatives à l'adoption imminente d'un projet de loi relatif aux associations, aux fondations et aux réseaux d'associations non-conforme avec les normes et standards internationaux en matière de droits de l'homme, notamment les droits à la liberté d'association et à la liberté d'opinion et d'expression.

Observations

Réponse à la communication

95. Le Rapporteur spécial regrette ne pas avoir reçu de réponse à sa communication datée du 7 août 2015. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des Gouvernements avec son mandat, selon les résolutions du Conseil des droits de l'homme 24/5 (2013), 21/16 (2012) et 15/21 (2010) et invite de ce fait les autorités à fournir aussi tôt que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

Projet de loi relatif aux associations, aux fondations et aux réseaux d'associations

96. Le Rapporteur spécial réitère ses vives préoccupations quant au projet de loi relatif aux associations, aux fondations et aux réseaux d'associations, adopté par le Conseil des ministres le 22 juillet 2015. Si ce projet de loi était adopté par le Parlement, la procédure d'autorisation préalable qu'il prévoit limiterait indûment l'existence et les activités des associations non-enregistrées et engendrerait une ingérence indue des autorités en matière de détermination des statuts, structure et activités des associations. Par ailleurs, la dissolution ou la suspension des associations serait facilitée et des poursuites pénales à l'encontre des membres ou dirigeants des associations maintenues ou reconstituées illégalement pourraient être ouvertes.

97. Le Rapporteur spécial rappelle que le droit à la liberté d'association oblige les États à prendre des mesures positives pour créer et maintenir un environnement favorable. De plus, les États ont l'obligation négative de ne pas entraver indûment l'exercice du droit à la liberté d'association. Les membres d'une association devraient être libres de déterminer les

statuts, la structure et les activités de celle-ci et de prendre leurs décisions à l'abri de toute ingérence de l'État (A/HRC/20/27).

98. Le Rapporteur spécial insiste sur le fait que le droit à la liberté d'association s'applique pendant toute la vie de l'association. La suspension d'une association et sa dissolution forcée sont parmi les atteintes les plus graves à la liberté d'association. Elles ne devraient donc être possibles qu'en cas de danger manifeste et imminent résultant d'une violation flagrante de la législation nationale, conformément au droit international des droits de l'homme. De telles mesures doivent être strictement proportionnelles à l'objectif légitime poursuivi et utilisées uniquement lorsque des mesures moins radicales se sont révélées insuffisantes.

Rwanda

99. JAL 06/11/2015. Case no. RWA 2/2015. State reply: None. Allégations quant aux arrestations, suivies de leurs libérations, de sept membres d'une organisation non-gouvernementale de défense des droits de l'homme au Rwanda, ainsi que des allégations d'actes de harcèlement envers les membres de cette organisation.

Observations

Réponse à la communication

100. Le Rapporteur spécial regrette de ne pas avoir reçu de réponse aux allégations contenues dans sa communication RWA 2/2015 indiquant des allégations d'arrestations et d'actes de harcèlement et d'intimidation envers plusieurs membres de la Ligue des droits de la personne dans la région des Grands Lacs (LDGL). Il considère les réponses aux questions soulevées dans ses communications comme une partie importante de la coopération des gouvernements avec son mandat, conformément aux résolutions du Conseil des droits de l'homme 24/5 (2013), 21/16 (2012) et 15/21 (2010).

101. Le Rapporteur spécial réitère ses préoccupations au sujet des allégations de harcèlement, d'arrestations signalées, de détentions temporaires des membres de la LDGL, mais aussi des interrogations qu'ils ont dû subir au sujet de la tenue de leur assemblée générale, ainsi qu'au sujet de la légalité du nouveau Comité directeur de la LGDL. Le Rapporteur spécial s'inquiète du fait qu'il semblerait que ces actes soient directement liés leur exercice de leur droits la liberté d'expression et à la liberté d'association et qu'ils risqueraient d'avoir un effet dissuasif sur l'exercice de la liberté d'association et d'expression au Rwanda.

102. Le Rapporteur spécial souligne les commentaires et les recommandations effectués dans le cadre de son rapport faisant suite à sa visite au Rwanda dans le cadre de son mandat (A/HRC/26/29/Add.2). En particulier, il s'inquiète du fait que la société civile, et en particulier les organisations non-gouvernementales et les partis politiques d'opposition, voient leur champ d'actions de plus en plus limité dans le droit et la pratique, ce qui a pour effet de limiter leurs droits de réunion pacifique, de liberté d'association et de liberté d'expression, de manière inquiétante.

103. Il réitère son appel aux autorités à « reconnaître en droit et en pratique, que les droits à la liberté de réunion pacifique et d'association jouent un rôle décisif dans l'émergence et la maintenance de systèmes démocratiques efficaces car ils sont un canal pour le dialogue, le pluralisme, la tolérance et l'ouverture d'esprit, et où la minorité ou les opinions dissidentes ou croyances sont respectées » (A/HRC/26/29/Add.2, para. 86 a)).

104. Il demande une nouvelle fois aux autorités à prendre toutes les mesures adéquates pour assurer que les défenseurs des droits de l'homme puissent exercer leurs droits à la

liberté d'association et de réunion pacifique dans un environnement favorable leur permettant de mener à bien leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

Sierra Leone

105. JAL 17/12/2015. Case no. SLE 2/2015. State reply: None. Allegations of systemic judicial harassment of land rights defenders.

Observations

Response to communication

106. The Special Rapporteur regrets that, to date, no reply has been received to his communication SLE 2/2015. He recalls that responses to his communications are an important part of the cooperation of the Government of Sierra Leone with his mandate, and urges the authorities to comply with Human Rights Council resolutions on the rights to freedom of peaceful assembly and of association. These resolutions, including resolution 24/5 (2013), call on States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications.

107. The Special rapporteur reiterates his concern at the alleged systematic persecution of members of Malen Land Owners and Users Association (MALOA) through judicial harassment in relation to their legitimate land rights advocacy in the Malen region, exercising their right to freedom of expression and association.

108. He insists on urging that all necessary measures be taken to ensure that above-mentioned land rights defenders and supporters of MALOA are provided with all the due process guarantees of a fair trial, preventing their prosecutions serving, in practice, to stifle the legitimate exercise of their rights to freedom of expression and association, in performing their human rights advocacy work in relation to land rights.

109. He reminds the Government of its obligation to respect and protect fundamental human rights, including the right of all individuals to freely associate. He underlines that this right involves the positive obligation to establish an enabling environment for members of associations to perform their activities without fear from threats or acts of intimidation and harassment of any sort.

South Sudan

110. JAL 29/07/2015. Case no. SSD 1/2015. State reply: None. Alleged imminent entry into force of the Non-Governmental Organization Bill 2015.

Observations

Response to communication

111. The Special Rapporteur regrets that, to date, no reply has been received to his communication SSD 1/2015. He recalls that responses to his communications are an important part of the cooperation of the Government of South Sudan with his mandate, and urges the authorities to comply with Human Rights Council resolutions on the rights to freedom of peaceful assembly and of association. These resolutions, including resolution 24/5 (2013), call on States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications.

112. The Special Rapporteur reiterates his concern about the entry into force of the Non-Governmental Organization Bill, 2015, (NGO Bill) in South Sudan. He remains concerned about the negative impact the legislation is bound to have on the essential work undertaken by civil society groups, including humanitarian organizations, in South Sudan. As indicated in the communication, the provisions contained in the legislation appear to be in contravention of international human rights law and standards and can be used to quell criticism and deter people wishing to exercise their rights to freedom of association and to freedom of opinion and expression.

113. The Special Rapporteur also echoes the concerns expressed in the report of the assessment mission by the Office of the United Nations High Commissioner for Human Rights to improve human rights, accountability, reconciliation and capacity in South Sudan (A/HRC/31/CRP.6), which refers to an on-going trend of repression against civil society organizations voicing dissent. According to the report, "[v]iolations of the freedom of opinion and expression, of peaceful assembly, as well as arbitrary arrest and detention of journalists, media workers or other individuals or groups perceived to be in opposition to the Government have been an issue of great concern in South Sudan since independence. The Government, and in particular the National Security Service (NSS), has attempted, with some success, to suffocate debate and opposition, resulting in alarm and fear among the population" (para. 170).

114. The Special Rapporteur reminds the State of its obligation to ensure a conducive environment for the free exercise of the rights to freedom of expression, assembly and association guaranteed in articles 19 and 20 of the Universal Declaration of Human Rights (UDHR). It also restates that, according to this same Covenant, only a very limited number of restrictions to these rights may apply, which should be prescribed by law and necessary in a democratic society for responding to a pressing social need for the interference.

115. The Special Rapporteur encourages the State to overturn any legislation that curtails the rights to freedom of peaceful assembly and of association.

Sudan

116. JAL 11/03/2015. Case no. SDN 1/2015. State reply: None. Alleged deregistration of fourteen associations in Sudan for contravening the Law on Cultural Groups of 1996 regulating associations.

117. JUA 27/04/2015. Case no. SDN 2/2015. State reply: None. Allegations of the arrest, detention, inadequate conditions of detention, and charges against a human rights defender.

118. JUA 12/06/2015. Case no. SDN 4/2015. State reply: None. Alleged criminal charges against two clergyman and undue restrictions of religious freedom of the Christian communities in Sudan

Observations

Responses to communications

119. The Special Rapporteur regrets that he has not received a response to his communication and reminds the Government of Sudan that he considers responses to his communications as an important part of the cooperation of Governments with his mandate. He calls upon States to cooperate fully with and assist him in the performance of his mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

120. The Special Rapporteur reiterates serious concern at the rising infringement on freedom of association in Sudan. He remains very concerned at the drastic decisions to deregister fourteen associations for contravening the Law on Cultural Groups of 1996 regulating associations carrying out legitimate work in Sudan, which appear to obstruct the exercise of the right to freedom of association (SDN 1/2015). He reminds the Government of Sudan that the action to suspend or dissolve an association is one of the severest types of restrictions on freedom of association. Therefore, any such decision to suspend or dissolve an association should comply with international human rights law and standards, namely it should be guided by the principles of proportionality and necessity (A/HRC/20/27, paragraph 75).

121. The Special Rapporteur deplores allegations of arrest, detention, inadequate conditions of detention, and charges against a human rights defender as well as the alleged criminal charges brought against two clergyman and undue restrictions of religious freedom of the Christian communities, respectively in communications SDN 2/2015 and SDN 4/2015. He reiterates his concern regarding allegations that indicate that the religious autonomy of churches, the rights to freedom of expression, religion and freedom of peaceful assembly of the Christian religious minorities have been seriously undermined by ongoing mass expulsion, arrests, detentions of foreign Christians and confiscation or destruction of church properties since the end of 2012. Such actions are bound to have a detrimental effect on other individuals exercising or wishing to exercise their right to association, peaceful assembly and freedom of expression and religion.

122. He reminds the Government of Sudan of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation or harassment of any sort.

Swaziland

123. JUA 07/05/2015. Case no. SWZ 2/2015. State reply: None. Alleged arbitrary arrest and continued pre-trial detention of, as well as charges of sedition and terrorism brought against, two political activists for exercising their rights to freedom of opinion, expression, association and peaceful assembly.

Observations

Response to communication

124. The Special Rapporteur regrets that no response has been received to date relating to the allegations contained in his communication indicating allegations of arrest and continued pre-trial detention of, as well as charges of sedition and terrorism brought against, Mr. Mario Masuku, the President of the political party 'the People's United Democratic Movement' (PUDEMO), and Mr. Maxwell Dlamini, the Secretary General of the party's youth wing, the Swaziland Youth Congress (SWAYOCO). He considers responses to the questions raised in his communications as an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

125. The Special Rapporteur is concerned that the rights to freedom of opinion, expression and peaceful assembly appear curtailed in an environment where laws are applied disproportionately against perceived political opponents, activists, and human rights defenders. He stresses again his concern about the charges brought against them under the Terrorism Act and Sedition Act that do not appear to comply with relevant international and regional human rights principles and standards. The Special Rapporteur recalls his

concerns at the alleged interference in judicial proceedings concerning the review of the legality of their pre-trial detention. Finally he stresses that the physical and psychological integrity of Mr. Masuku and Mr. Dlamini may be at risk while in detention. Such actions are bound to have a detrimental effect on other individuals exercising or wishing to exercise this right.

126. The Special Rapporteur remains concerned at the misuse of anti-terrorism legislation to curb freedom of peaceful assembly and association in the country. Although the Special Rapporteur is aware that States have an interest in protecting national security or public safety, and the fight against terrorism which are legitimate grounds for restricting freedom of association, he reminds the Government of Swaziland that there is also need for States to comply with international human rights law while countering terrorism and that, under the International Covenant on civil and political rights ratified by Swaziland on 26 March 2004), any limitation must not only pursue a legitimate interest and meet the strict necessity and proportionality test.

127. He also reiterates his recommendation to the Government to put in place an enabling and safe environment that is conducive to the free expression of civil society and political activists allowing individuals to exercise their legitimate rights to freedom of opinion, expression, association and peaceful assembly.

Uganda

128. JAL 27/04/2015. Case no. UGA 1/2015. State reply: None. Allegation of non-compliance with international human rights law and standards of a bill regulating associations which would introduce undue limitations to the rights to freedom of association.

129. JAL 12/08/2015. Case no. UGA 2/2015. State reply: 07/09/2015. Alleged temporary arrest and repeated harassment of a human rights defender.

Observations

Responses to communications

130. The Special Rapporteur regrets that no substantial response has been received to date relating to the allegations contained in his communications. He considers responses to the questions raised in his communications as an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

131. The Special Rapporteur welcomes the release of Mr. Justus Orishaba Bagamuhunda on 19 August 2015, but expressed serious concerns that his arrest and arbitrary administrative detention may have been related to his work as a human rights defender focused on the promotion of human rights, democracy and good governance (UGA 2/2015). He calls on the authorities to take all appropriate measures to ensure that human rights activists can exercise their rights to freedom of association and peaceful assembly in a safe and enabling environment without risk being exposed to threats, retaliation, intimidation or harassment. He reminds the Government of its obligation to respect and protect fundamental human rights, including the right of all individuals to freely associate.

Non-Governmental Organisations Bill, 2015 (NGO Bill)

132. As indicated in the communication sent on 27 April 2005 (UGA 1/2015), the Special Rapporteur remains seriously concerned about certain provisions of the Non-Governmental Organisations Bill, 2015 (NGO Bill) that would severely restrict the right to freedom of

association as enshrined in international human rights law and standards. Similarly, he remains concerned by the vague wording of some of the provisions and cautions the authorities against ambiguous legal provisions governing the rights to freedom of peaceful assembly and of association that increase the risk of abuses and violations of these rights and infuse fear of breaking the law among society activists, which in turn can lead to self-censorship. He is further concerned at that the wide discretion given to the Minister for Internal Affairs and the National Board for NGOs at the National, District and Sub-County levels are problematic and could have the effect of discouraging the formation and work of associations.

133. The Special Rapporteur reminds the State of its obligation to ensure a conducive environment for the free exercise of the rights of peaceful assembly and association, rights enshrined in the International Covenant on Civil and Political Rights, acceded by the State on 21 June 1995. It also restates that, according to this same Covenant, only a very limited number of restrictions to these rights may apply, which should be prescribed by law and necessary in a democratic society for responding to a pressing social need for the interference.

Country visit

134. The Special Rapporteur reminds the Government of Uganda of his country visit requests sent in 2011 and 2013, to which a response is yet to be received. He believes such a country visit may be an opportunity to discuss any technical assistance that the Government may require.

Zambia

135. JAL 11/01/2016. Case no. ZMB 4/2015. State reply: None. Alleged undue delays in registration process of a non-governmental organization working on Lesbian, gay, bisexual, transgender and intersex (LGBTI) issues.

Observations

Response to communication

136. The Special Rapporteur regrets that no response has been received to date relating to the allegations contained in his communication ZMB 4/2015. He considers responses to the questions raised in his communications as an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

137. The Special Rapporteur reiterates his concern at the reportedly undue delays in reviewing the application for registration of the Engender Rights Centre for Justice and the subsequent refusal to register it for reasons that could be related to the organization's peaceful activities in advocating and speaking out against discrimination and defending the rights of LGBTI persons in Zambia. The Special Rapporteur further reiterates his concerns with regard to the judicial proceedings against Mr. Kasonkomona that appear to result from the legitimate exercise of his right to freedom of expression on a TV show and more generally to his human rights activities within the Engender Rights Centre for Justice.

138. The Special Rapporteur is of the opinion that a "notification procedure", rather than a "prior authorization procedure" that requests the approval of the authorities to establish an association as a legal entity, complies better with international human rights law and should be implemented by States. Under this notification procedure, associations are automatically granted legal personality as soon as the authorities are notified by the founders that an

organization was created. Any decision rejecting the submission or application must be clearly motivated and duly communicated in writing to the applicant. Associations whose submissions or applications have been rejected should have the opportunity to challenge the decision before an independent and impartial court (A/HRC/20/27).

139. More generally, the Special Rapporteur reminds the Government of its obligation to respect and protect the right of all individuals to freely associate. He underlines that this right involves the positive obligation to establish an enabling environment for members of associations to perform their activities without fear from threats or acts of intimidation and harassment of any sort.

140. Furthermore, the Special Rapporteur refers to refer to the report of the High Commissioner for Human Rights (A/HRC/19/41) in which he insists on the right of LGBTI not to be discriminated against and enjoy human rights on an equal footing, including in the context of their rights to freedom of peaceful assembly and association.

Country visit

141. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to Zambia, as indicated by his letter on 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

Zimbabwe

142. JUA 23/03/2015. Case no. ZWE 1/2015. State reply: 30/03/2015. Alleged arbitrary arrest, incommunicado detention and enforced disappearance of a human rights defender.

Observations

Response to communication

143. The Special Rapporteur regrets that no substantial response has been received to date relating to the allegations contained in his communication. He considers responses to the questions raised in his communications as an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

144. The Special Rapporteur reiterates his utmost concern regarding to the arbitrary arrest, incommunicado detention and enforced disappearance of human rights defender and activist Mr. Dzamara in March 2015. He urges again the authorities to carry out an independent, thorough and effective investigation to locate his whereabouts and bring perpetrators to justice. He expresses serious concern about the stagnant investigations and widespread chilling effect that the disappearance of a human rights defender may have on others.

145. He stresses that it is the obligation of States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline (A/HRC/RES/24/5, operational paragraph 2). Moreover, he reaffirms that the rights to freedom of peaceful assembly and of association are crucial cornerstones for the possible emergence and sustainability of effective democratic systems.

146. The Special Rapporteur reminds the Government of Zimbabw of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation or harassment of any sort.

Country visit

147. The Special Rapporteur reminds the Government of Zimbabwe of his country visit requests sent in 2011 and 2013, to which a response is yet to be received. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

IV. Americas region

148. During the reporting period, the Special Rapporteur sent 27 communications to 11 countries in the Americas region. A total of 14 communications were follow-ups to cases previously sent to the attention of the State concerned.

149. The Special Rapporteur remains concerned about worrying reports from the region regarding peaceful protestors and members of associations, including non-governmental organizations, political parties and trade unions, who were criminalized, stigmatized, intimidated, physically assaulted, arbitrarily arrested or detained, as well as killed, because they went to the streets to voice their discontent or they carried out legitimate activities that contradicted certain political or economic interests.

150. Furthermore, the Special Rapporteur reminds States that the Human Rights Council stressed that peaceful protests should not be viewed as a threat and encouraged the States to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their causes (A/HRC/RES/22/10). He reiterates that human rights and fundamental freedoms are indivisible and belong to every individual, hence they are not rights enjoyed by States, but rather by individuals who may espouse minority or dissenting views or beliefs. Finally, he reaffirms that the rights to freedom of peaceful assembly and of association are crucial cornerstones for the possible emergence and sustainability of effective democratic systems.

Brazil

151. JUA 14/07/2015. Case no. BRA 2/2015. State reply: None. Alleged imminent eviction of approximately 20,000 persons residing in three urban informal settlements in the State of Minas Gerais.

152. JAL 28/10/2015. Case no. BRA 8/2015. State reply: 30/10/2015. Alleged undue restrictions on the rights of peaceful assembly and association of proposed terrorism legislation.

153. PR 11/04/2015 "Brazil anti-terrorism law too broad, UN experts warn"

Observations

Responses to communications

154. The Special Rapporteur thanks the Government of Brazil for the reply to his communication sent on 28 October 2015. The Special Rapporteur regrets that the Government of Brazil has yet not replied to the communication BRA 2/2015 and urges the authorities to provide a detailed response to the questions raised in this letter, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

155. The Special Rapporteur takes note of the steps undertaken by the authorities to implement measures against terrorism. According to the Brazilian Government, the recent legislation is only a continuation of its previous policy and is applied legitimately according to international standards and has therefore no link with the World Cup in 2014, as well as the upcoming 2016 Olympic Games.

156. However, the Special Rapporteur remains concerned at the possible misuse of anti-terrorism legislation to curb freedoms of peaceful assembly and association in the country. Although the Special Rapporteur is aware that States have an interest in protecting national security or public safety, and the fight against terrorism which are legitimate grounds for restricting freedom of association, he calls on the Government of Brazil to ensure that any restrictions on the rights to freedom of peaceful assembly and of association are prescribed by law, which is necessary in a democratic society, and proportionate to the objective pursued, and do not harm the principles of pluralism, tolerance and broadmindedness. Therefore, any restrictions should be subject to an independent, impartial, and prompt judicial review (A/HRC/20/27, paragraph 84 (d) and (e)).

157. On different occasions, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has stressed in a report to the General Assembly that "States should not need to resort to derogation measures in the area of freedom of assembly and association. Instead, limitation measures, as provided for in ICCPR, are sufficient in an effective fight against terrorism" (A/61/267, para. 53).

158. Moreover, he reaffirms that the rights to freedom of peaceful assembly and of association are necessary elements for the possible emergence and sustainability of effective democratic systems. In this regard, States should therefore make every effort to facilitate those rights.

Canada

159. JAL 27/04/2015. Case no. CAN 1/2015. State reply: 28 April 2015. Allegations concerning the compatibility of Bill C-51, an "Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts", with international norms and standards on human rights.

160. JAL 29/06/2015. Case no. CAN 2/2015. State reply: 29/06/2015. Allegations of protracted undue interference in the form of intrusive audits and threat of revocation of charitable status for registered charities.

Observations

Responses to communications

161. The Special Rapporteur thanks the Government of Canada for its detailed and substantive response received to the communication sent on 29 June 2015. He nevertheless regrets that a substantial response to his communication CAN 1/2015 is yet to be received, and urges the authorities to provide a detailed response to the questions raised in his letter, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

162. The Special Rapporteur takes note of the Government's response that tax incentives are not aimed at restricting freedom of expression, but rather giving a definition of what kind of organization is eligible for tax assistance. According to the Government, such limitation is necessary in order to afford overall confidence in the charitable sector - sector being supported by taxpayers - the law has to define limits to what is accepted as charitable. The Special Rapporteur also takes note that, on average, 93% of charities selected for audits are able to continue their charitable work. The Government further stresses the fact that some organizations do not benefit from the tax exemption does not impede them from exercising their activities, and from benefiting their full enjoyment of freedom of association.

163. The Special Rapporteur also notes with appreciation the response provided by the Government, especially the legal environment greatly supporting the freedom of association and expression in Canada. Nevertheless, the Special Rapporteur remains concerned about the overall impact on registered charitable associations, which has led to self-censorship by some of these associations, has exerted a drain on their limited resources and has led to the revocation of charitable status for others.

164. Regarding communication CAN 1/2015, the Special Rapporteur reiterates its concern about the compatibility of Bill C-51 with international human rights standards and, in particular, freedom of expression and peaceful assembly. He advocates that when absolutely necessary, the measures provided by the International Covenant on Civil and Political Rights are adequate to combat terrorism or handle other security considerations.

165. The Special Rapporteur stresses that the right to freedom of association obliges States to take, on one hand, positive measures to establish and maintain an enabling environment and on the other hand, negative measures not to obstruct the exercise of the right to freedom of association, which includes guaranteeing that association can freely carry out their activities, without discrimination (A/HRC/20/27).

Country visit

166. The Special Rapporteur reminds the Government of Canada of his willingness to undertake a country visit to Canada, as indicated in his letters from 2013, 2014 and 2015. He looks forward to receiving a positive reply from the new administration.

Chile

167. JAL 08/07/2015. Case no. CHL 2/2015. State reply: 12/10/2015. Presunta solicitud de remoción de la directora del Instituto Nacional de Derechos Humanos (INDH) y críticas públicas hechas hacia este instituto debido a la publicación de un informe escolar de Derechos Humanos en el que se critica el accionar de Carabineros en el manejo de las protestas en 2011

Observaciones

Respuesta a la comunicación

168. El Relator Especial agradece las respuestas del Gobierno de Chile a su comunicación. En este sentido, agradece al Estado por su cooperación con su mandato, conforme a las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Visita de país

169. El Relator Especial agradece la invitación a su mandato y la cooperación del Estado chileno a lo largo de la visita que ocurrió en el país del 21 al 30 de septiembre de 2015. Quiere destacar la cooperación ejemplar de las autoridades chilenas que contribuyeron altamente al excito de la misión. Él desea referirse a su informe de misión, que contiene sus conclusiones y recomendaciones sobre su visita (A/HRC/32/36/Add.1).

Colombia

170. JUA 20/08/2015. Case no. COL 4/2015. State reply: 25/09/2015. Presuntos actos de intimidación y amenazas de muerte contra un defensor de derechos humanos.

Observaciones

Respuesta a la comunicación

171. El Relator Especial agradece el Gobierno de Colombia por sus respuestas a las comunicaciones del 20 de agosto de 2015 (COL 4/2015) y por su cooperación con su mandato, conforme a las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

172. El Relator Especial leyó con atención la respuesta a los interrogantes planteados en su comunicación del 20 de agosto de 2015, y acoge positivamente las declaraciones y los pronunciamientos públicos de las autoridades a favor de la comunidad de Paz de San José de Apartadó. Asimismo, acoge positivamente el convenio establecido con la Fundación para la Libertad de Expresión y la evaluación de la queja por los hechos mencionados por la Procuraduría delegado para las Fuerzas militares.

173. En este contexto, pide al Gobierno de Colombia mantenerlo informado del estado de las investigaciones respecto al caso. No obstante, el Relator Especial se muestra muy preocupado por el alto nivel de impunidad que prevalece respecto a las agresiones y violaciones de los derechos de los defensores y defensoras, incluyendo asesinatos y atentados contra la vida en Colombia. El Relator Especial exhorta a las autoridades a que tomen las medidas necesarias para que estos actos sean investigados de forma pronta y adecuada, que los culpables respondan ante la justicia y que las víctimas obtengan reparación adecuada, en particular, en casos en los cuales la policía, u otros agentes estatales, resultan involucrados.

174. Recuerda la obligación de los Estados de garantizar un entorno propicio para el libre ejercicio del derecho de asociación; un derecho consagrado en el Pacto Internacional de Derechos Civiles y Políticos, ratificado por Colombia el 29 de Octubre de 1969. A su vez, advierte contra los entornos que puedan obstaculizar gravemente el disfrute de los derechos a la libertad de reunión pacífica y de asociación (A/HRC/20/27, párrafo 20).

Ecuador

175. JAL 09/07/2015. Case no. ECU 4/2015. State reply: 08/10/2015. Presunta advertencia de disolución de la Fundación Andina para la Observación y Estudio de Medios, Fundamedios, en aplicación del Decreto Ejecutivo No. 16.

176. JAL 10/12/2015. Case no. ECU 6/2015. State reply: 20/04/2016. Alegaciones sobre actos de violencia física y verbal y actos de intimidación contra mujeres defensoras de derechos humanos.

177. PR 17/09/2015 "Ecuador / Libertad de expresión: Relatores de ONU y la CIDH condenan medidas para disolver a una destacada organización"

Observaciones

Respuestas a comunicaciones

178. El Relator Especial agradece el Gobierno de Ecuador por sus respuestas a las comunicaciones del 9 de julio de 2015 (ECU 4/2015). Sin embargo, lamenta no haber recibido una respuesta su otra comunicación enviada en el período del presente reporte. En este sentido, recuerda al Estado que considera aquellas respuestas como formando parte integral de la cooperación de los Estados con su mandato, de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

179. El Relator Especial toma nota de los esfuerzos para garantizar que se archive el procedimiento administrativo de disolución iniciado a Fundamedios. No obstante, subraya sus inquietudes en cuanto a la afirmación del Estado en su respuesta con respecto a "la prohibición de ejercer su índole político, evitando alertar infundadas, con la única finalidad de afectar el prestigio de Ecuador y su institucionalidad, así como transparentar sus fuentes de financiamiento y la utilización de dichos recursos" que restringe fuertemente el derecho a la libertad de expresión de Fundamedios.

180. El Relator Especial reitera sus serias inquietudes con respecto a la libertad de expresión y de asociación en Ecuador e invita el Estado a garantizar un entorno propicio para el libre ejercicio del derecho de asociación; un derecho consagrado en el Pacto Internacional de Derechos Civiles y Políticos, ratificado por Ecuador el 6 de marzo de 1969. En particular, el Relator Especial hace hincapié en el riesgo para la libertad de asociación representado por el Decreto 739 que establece importantes restricciones al trabajo de las organizaciones y que otorga al Estado amplias atribuciones para obstaculizar los registros legales de dichas organizaciones y disolverlas.

181. El Relator Especial recuerda que La palabra "asociación" se refiere, entre otras cosas, a organizaciones de la sociedad civil, clubes, cooperativas, ONG, asociaciones religiosas, partidos políticos, sindicatos, fundaciones e incluso asociaciones establecidas en la Web, ya que el papel de Internet ha sido decisivo, por ejemplo, para facilitar la participación activa de la ciudadanía en la construcción de sociedades democráticas" (A/HRC/20/27). Consecuentemente, la libertad de asociación está estrechamente vinculada a la libertad de expresión.

182. El Relator Especial recuerda también que el derecho a la libertad de asociación es efectivo durante toda la vida de la asociación. La suspensión y la disolución involuntaria de una asociación son las formas más severas de restricción de la libertad de asociación. Por consiguiente, de conformidad con las normas internacionales de derechos humanos, esas medidas solo podrán imponerse ante un riesgo claro e inminente de violación flagrante de la legislación nacional. Deberán ser estrictamente proporcionales a su legítimo objetivo y se utilizarán únicamente cuando sean insuficientes medidas menos severas (A/HRC/20/27).

Visita de país

183. El Relator Especial confía en que el Gobierno de Ecuador responderá favorablemente a sus solicitudes de visita hechas en 2014 y 2015. Recuerda que el Consejo de Derechos Humanos exhorta a los Estados a que colaboren plenamente con el Relator Especial en el desempeño de sus funciones y consideren favorablemente sur solicitudes para realizar visitas (A/HRC/RES/24/5, OP 6).

El Salvador

184. JAL 28/05/2015. Case no. SLV 2/2015. State reply: 27/07/2015; 11/08/2015. Alegaciones sobre el presunto asesinato de dos defensores, padre e hijo, de los derechos de las personas con discapacidad en El Salvador.

185. JUA 07/01/2016. Case no. SLV 3/2015. State reply: None. Alegaciones sobre actos de vigilancia, amenazas y acoso judicial contra dos abogadas de derechos humanos.

Observaciones

Respuestas a comunicaciones

186. El Relator Especial agradece la respuesta del Gobierno del Salvador a su comunicación del 28 de mayo de 2015 (SLV 2/2015). Sin embargo, lamenta no haber recibido una respuesta a su comunicación del 7 de enero de 2016 (SLV 3/2015) y solicita a las autoridades a responder a los interrogantes planteados en esta comunicación en la mayor brevedad, de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos, que instan a los Estados a colaborar plenamente con su mandato.

187. El Relator Especial leyó con atención las respuestas a los interrogantes planteados en su comunicación del 28 de mayo de 2015 (SLV 2/2015), así como el compromiso de las autoridades de garantizar la investigación del caso relativo a la muerte del Sr. Israel Antonio Quintanilla –Presidente de la Asociación de Lisiados de Guerra (ALGES) y persona con discapacidad- como su hijo el Sr. Carlos Alberto Quintanilla. El Relator Especial saluda también la Resolución del Expediente SS-0163-2015 emitida el día ocho de julio de 2015 quien acuerda prioridad a la investigación del caso en el sistema de justicia. Asimismo, el Relator Especial solicita al Estado de El Salvador que informe sobre las acciones realizadas y las medidas adoptadas para dar cumplimiento a sus obligaciones internacionales.

188. El Relator Especial recuerda a las autoridades que deben tomar medidas necesarias para que estos actos sean investigados de forma pronta y adecuada, que los culpables respondan ante la justicia y que las víctimas obtengan reparación adecuada, en particular, en casos en los cuales la policía, u otros agentes estatales, resultan involucrados.

189. Recuerda la obligación de los Estados de garantizar un entorno propicio para el libre ejercicio del derecho de asociación; un derecho consagrado en el Pacto Internacional de Derechos Civiles y Políticos, ratificado por el Salvador el 30 de noviembre de 1979. A su vez, advierte contra los entornos que puedan obstaculizar gravemente el disfrute de los derechos a la libertad de reunión pacífica y de asociación.

Honduras

190. JAL 05/05/2015. Case no. HND 1/2015. State reply: None. Alegaciones sobre declaraciones difamatorias contra una organización de derechos humanos.

191. UA 31/08/2015. Case no. HND 2/2015. State reply: None. Presuntas amenazas e intento de homicidio contra periodista, sindicalista y defensora de derechos humanos.

192. JAL 10/11/2015. Case no. HND 3/2015. State reply: 01/02/2016. Alegaciones de muertes violentas y ataques contra defensores y defensoras de derechos LGBTI.

193. JUA 14/01/2016. Case no. HND 1/2016. State reply: 04/04/2016. Alegaciones de asesinato, ataques, intimidación y amenazas contra miembros de comunidades indígenas y defensores de derechos humanos.

Observaciones

Respuestas a comunicaciones

194. El Relator Especial agradece el Gobierno de Honduras por sus respuestas a las comunicaciones del 10 de noviembre de 2015 (HND 3/2015) y del 14 de enero del 2016 (HND 1/2016). Sin embargo, lamenta no haber recibido una respuesta a sus otras dos comunicaciones enviadas en el período del presente reporte. En este sentido, recuerda al Estado que considera aquellas respuestas como formando parte integral de la cooperación de los Estados con su mandato, de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

195. El Relator Especial leyó con atención las respuestas a los interrogantes planteados en su comunicación del 1 de febrero de 2015 (HND 3/2015), y saluda el compromiso del Gobierno sobre la lucha contra la discriminación, incluyendo la adopción de varias normas protectoras y saluda la adopción de la Ley de Protección para las y los Defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia. También, el Relator Especial tomó nota de la respuesta del Estado del 4 de abril de 2016 (HND 1/2016) sobre la investigaciones abiertas en los casos de varios asesinato, ataques, intimidación y amenazas contra miembros de comunidades indígenas y defensores de derechos humanos así como de las medidas tomadas para cumplir con su deber de consultar a los pueblos indígenas.

196. En este sentido, el Relator Especial pide al Estado de Honduras mantenerlo informado del estado de las investigaciones respecto de la investigaciones en curso. Sin embargo, el Relator Especial solicita a las autoridades responder lo antes posible a los interrogantes planteados en las comunicaciones HND 1/2015 y HND 2/2015 acerca de presuntos actos de declaraciones difamatorias contra la organización Plataforma EPU, así como resuntas amenazas e intento de homicidio contra la Sra. Elizabeth Zúñiga, periodista, sindicalista y defensora de derechos humanos, respectivamente.

197. El Relator Especial reitera su preocupación respecto de los repetidos ataques y actos de hostigamiento contra defensores y defensoras de los derechos humanos en Honduras, por ejemplo, en el contexto de organizaciones implicadas en el EPU (HND 1/2015) o en contra de miembros de asociaciones indígenas (HND 1/2016) y de organizaciones trabajando para los derechos de las personas LGBTI (HND 3/2015). Se muestra muy preocupado por el alto nivel de impunidad que prevalece respecto a las agresiones y violaciones de los derechos de los defensores y defensoras, incluyendo asesinatos y atentados contra la vida. Esta situación ha sido objeto de numerosas comunicaciones por parte de los Procedimientos Especiales de las Naciones Unidas.

198. El Relator Especial exhorta a las autoridades a que tomen las medidas necesarias para que estos actos sean investigados de forma pronta y adecuada, que los culpables respondan ante la justicia y que las víctimas obtengan reparación adecuada, en particular, en casos en los cuales la policía, u otros agentes estatales, resultan involucrados. Recuerda la obligación de los Estados de garantizar un entorno propicio para el libre ejercicio del derecho de asociación; un derecho consagrado en el Pacto Internacional de Derechos

Civiles y Políticos, ratificado por Honduras el 25 de agosto de 1997. A su vez, advierte contra los entornos que puedan obstaculizar gravemente el disfrute de los derechos a la libertad de reunión pacífica y de asociación.

Grupos sometidos a mayores riesgos

199. Con respecto a las alegaciones que indican en particular ataques cometidos contra miembros de comunidades indígenas o contra personas en razón de su orientación sexual e identidad de género, el Relator Especial invita al Gobierno de Honduras a referirse a los instrumentos legislativos internacionales que señalan medidas y principios concretos que los Estados deben adoptar para lograr la no discriminación y la igualdad; entre otros, la Declaración de las Naciones Unidas sobre los derechos de los pueblos indígenas que exhorta a los Estados a combatir los prejuicios, eliminar la discriminación y promover la tolerancia, la comprensión y las buenas relaciones entre los pueblos indígenas y todos los demás sectores de la sociedad, y el informe del Alto Comisionado de las Naciones Unidas para los Derechos Humanos que solicita a los Estados proteger a las personas frente a la violencia homófoba y transfóbica, prevenir la tortura y los tratos crueles, inhumanos y degradantes motivados por la orientación sexual y la identidad de género y prohibir también la discriminación por esos motivos, revocar las leyes que tipifiquen como delito la homosexualidad, salvaguardar las libertades de expresión, de asociación, y de reunión pacífica para las personas LGBTI y reconocer sus derechos a disfrutar o ejercer, en pie de igualdad con los demás, todos los derechos humanos y las libertades fundamentales (A/HRC/19/41).

Visita de país

200. El Relator Especial agradece la invitación extendida a su mandato el 9 de enero de 2013, pero lamenta no haber recibido una respuesta a su reciente proposición de fechas, según correo del 8 de abril de 2015. Confía en que el Gobierno de Honduras le cursará prontamente nuevas proposiciones factibles para una visita en un futuro cercano.

Mexico

201. JUA 04/03/2015. Case no. MEX 2/2015. State reply: 08/04/2015. Alegaciones sobre la detención de un periodista y activista social de origen maya.

202. JUA 30/04/2015. Case no. MEX 5/2015. State reply: None. Presuntos actos intimidatorios contra organizaciones integrantes de la Red Nacional en Defensa de los Derechos Humanos (RENDDH).

203. JAL 22/07/2015. Case no. MEX 7/2015. State reply: 13/10/2015; 13/10/2015 bis. Alegaciones de amenazas de muerte, vigilancia e intento de secuestro contra defensores de los derechos humanos.

204. JUA 30/11/2015. Case no. MEX 13/2015. State reply: 01/04/2016. Alegaciones de detención arbitraria y malos tratos a cuatro defensores de los derechos humanos.

Observaciones

Respuestas a comunicaciones

205. El Relator Especial agradece el Gobierno de México por sus respuestas a las comunicaciones MEX 2/2015, MEX 7/2015 and MEX 13/2015. Sin embargo, lamenta no haber recibido una respuesta a la comunicación MEX 5/2015 enviada en el período del presente reporte. En este sentido, recuerda al Estado que considera aquellas respuestas como formando parte integral de la cooperación de los Estados con su mandato, de

conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

206. En este contexto, el Relator toma nota de la respuesta del Gobierno en donde se aclaran las investigaciones iniciadas para determinar la posible existencia de algún delito en el caso del Sr. Pedro Celestino Canché Herrera (MEX 2/2015). El Relator Especial toma nota de las medidas cautelares y las medidas de protección extendidas a la Asamblea Popular del Pueblo Juchiteco (MEX 7/2015). Leyó con atención la argumentación proporcionada por el Estado mexicano en cuanto a las bases legales de las detenciones de los defensores de derechos humanos e integrantes de la Sección 22 del Sindicato Nacional de Trabajadores de la Educación (MEX 13/2015). En este contexto, el Relator Especial expresa preocupación por los motivos avanzados para justificar dichas detenciones y lamenta que el Estado no haya proporcionado más informaciones en relación con los puntos levantados en su comunicación. El Relator Especial esta también preocupado por los actos intimidatorios contra los miembros del de las organizaciones participantes en la "Gira Nacional" ocurridos en diversas oportunidades, objeto de una comunicación (MEX 5/2015) a la cual el Gobierno no contesto.

207. Solicita al Gobierno mantenerlo informado de la situación actual de las investigaciones, diligencias judiciales y planes de protección para garantizar los derechos de los defensores y defensoras de derechos humanos en México, así como los logros y avances del Mecanismo Nacional de Protección para personas defensoras de derechos humanos y periodistas.

208. El Relator Especial permanece seriamente preocupado por alegaciones de asesinatos, torturas, detenciones arbitrarias, actos de tortura, y criminalización de manifestantes, miembros de asociaciones trabajando para la defensa de derechos humanos, así como la presunta impunidad que prevalece respecto a estas agresiones y violaciones. En particular, le preocupa la seguridad e integridad física y psicológica de los miembros de asociaciones que trabajan en temas relacionados con los derechos humanos, en un contexto de creciente violencia e inseguridad que pone en riesgo el ejercicio legítimo de su derecho a la libertad de reunión pacífica y asociación.

209. Asimismo, hace hincapié en el recién comunicado de prensa del 6 de abril de 2016, en el cual tres relatores especiales expresaron su grave preocupación en relación con los atentados personales contra los defensores de derechos humanos en México, mismos que incrementan el peligro, el riesgo y la vulnerabilidad para ellos y su trabajo. Este llamado se inscribió en el contexto de una ola de críticas en diversos medios mexicanos contra defensores de derechos humanos, organizaciones no gubernamentales y miembros de organismos internacionales de derechos humanos que está empeorando el clima para la promoción y protección de los derechos humanos en el país.

210. El Relator Especial recuerda la obligación positiva de los Estados Partes del Pacto Internacional de Derechos Civiles y Políticos de garantizar la protección de los derechos contenidos en dicho Pacto contra violaciones por sus agentes y por personas o entidades privadas, la cual incluye el deber de adoptar las medidas adecuadas para prevenir, investigar, juzgar y sancionar a los responsables, y reparar el daño causado. A su vez, advierte contra los entornos que puedan obstaculizar gravemente el disfrute de los derechos a la libertad de reunión pacífica, de asociación y de libertad de expresión.

Nicaragua

211. JAL 29/05/2015. Case no. NIC 4/2015. State reply: None. Alegaciones sobre presuntas agresiones y deportación arbitraria contra dos defensores de derechos humanos

del Centro por la Justicia y el Derecho internacional (CEJIL) que está basado en Costa Rica.

212. JAL 14/01/2016. Case no. NIC 6/2015. State reply: 11/03/2016; 11/03/2016 bis. Alegaciones de abuso de autoridad y funciones, y falta de protección de manifestantes y defensores de derechos humanos, por parte de la Policía Nacional nicaragüense en el marco de una manifestación campesina contra la construcción del Canal interoceánico en Nicaragua.

Observaciones

Respuestas a comunicaciones

213. El Relator agradece la respuesta del Gobierno de Nicaragua recibida el 11 de marzo de 2016 en la cual se le indica que el rol de la policía nacional ha sido de resguardar el orden en el transcurro de las manifestaciones para que se desarrollen de forma pacífica y que ningún abuso de autoridad sucedió en este marco. Sin embargo, lamenta no haber recibido una respuesta a su comunicación del 29 de mayo de 2015 (NIC 4/2015) y solicita a las autoridades a responder a los interrogantes planteados en esta comunicación en la mayor brevedad, de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos, que instan a los Estados a colaborar plenamente con su mandato.

214. El Relator Especial leyó con atención las respuestas a los interrogantes planteados en su comunicación NIC 6/2015, y se congratula por el compromiso de las autoridades de garantizar el libre goce y ejercicio de los derechos humanos de los ciudadanos de Nicaragua, incluido los derechos de reunión pacífica y de libertad de expresión. Según las informaciones proporcionadas por el Estado, todas las medidas tomadas durante la manifestación consistieron a garantizar la buena movilidad de los participantes y contrarrestar la violencia de unos participantes. El Estado alega que los organizadores no acudieron a solicitar un permiso como dispuesto por la Constitución y la ley 872, tampoco informaron la policía sobre la ruta de la marcha y ningún abuso de autoridad fue registrado.

215. El Relator Especial recuerda que el artículo 21 del Pacto Internacional de Derechos Civiles y Políticos dispone que el ejercicio del derecho de reunión pacífica "sólo podrá estar sujeto a las restricciones previstas por la ley que sean necesarias en una sociedad democrática, en el interés de la seguridad nacional, de la seguridad pública o del orden público, o para proteger la salud o la moral públicas o los derechos y libertades de los demás". Asimismo, subraya que la libertad de reunión pacífica es un derecho, no un privilegio y su ejercicio no debe estar sujeto a una autorización previa de las autoridades (A/HRC/31/66). Las autoridades estatales pueden poner en marcha un sistema de notificación previa, donde el objetivo es permitir que las autoridades estatales tengan una oportunidad para facilitar el ejercicio de este derecho, para tomar medidas con el fin de proteger la seguridad y / o el orden público y proteger los derechos y libertades de otros. Cualquier procedimiento de notificación no debe funcionar como una solicitud de facto para la autorización o como base para la regulación basada en el contenido.

216. El Relator Especial está también preocupado por informaciones recibidas sobre actos de represión de las manifestaciones por la policía, incluyendo la participación de un uso excesivo de la fuerza, así como detenciones arbitrarias y, posteriormente, violaciones de las garantías del debido proceso. Expresa inquietudes sobre el hecho de que la violencia haya podido justificar injerencia en el ejercicio del derecho de reunión pacífica. El Relator Especial considera que los Estados tienen también la obligación negativa de evitar injerencias indebidas en el ejercicio del derecho de reunión pacífica. Toda restricción que se imponga debe ser necesaria y proporcional al objetivo planteado.

Visita de país

217. El Relator Especial confía en que el Gobierno de Nicaragua responderá favorablemente a sus solicitudes de visita hechas en 2015. Recuerda que el Consejo de Derechos Humanos exhorta a los Estados a que colaboren plenamente con el Relator Especial en el desempeño de sus funciones y consideren favorablemente sur solicitudes para realizar visitas (A/HRC/RES/24/5, OP 6).

Peru

218. JAL 30/07/2015. Case no. PER 2/2015. State reply: None. Presunta vulneración del derecho a la libre asociación mediante la adopción de las Resoluciones Directorales Ejecutivas (RDE) No. 085-2015-DE y 097-2015/APCI-DE de la Agencia Peruana de Cooperación Internacional (APCI).

219. JUA 25/08/2015. Case no. PER 3/2015. State reply: 14/04/2016. Presuntos actos de intimidación y amenazas de muerte contra defensora de derechos humanos, en relación con proyecto minero.

220. JUA 03/12/2015. Case no. PER 5/2015. State reply: None. Alegaciones de atentados a la vida, amenazas de muerte y cargos judiciales contra un defensor de derechos humanos.

Observaciones

Respuestas a comunicaciones

221. El Relator agradece la respuesta del Gobierno recibida el 14 de abril de 2016, pero el lamenta no haber recibido una respuesta a sus otras comunicaciones y reitera considerar las respuestas a sus comunicaciones como un componente esencial de la cooperación de los Gobiernos con su mandato, según resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos. Por consiguiente, insta a las autoridades a proporcionar respuestas detalladas a todas las inquietudes planteadas en su comunicación lo antes posible.

222. El Relator Especial insta a las autoridades a proporcionar respuestas detalladas a todas las inquietudes planteadas en sus comunicaciones lo antes posible. Reitera suma preocupación por las alegaciones de atentados en contra de la vida, de amenazas e intimidación en contra de personas tendrían relación con su legítima actuación como defensores de los derechos humanos afectando el ejercicio de sus derechos a la libertad de opinión y expresión y a la libertad de asociación (PER 3/2015 y PER 5/2015).

223. En este sentido, el Relator Especial insta a las autoridades peruanas a que adopten todas las medidas necesarias para proteger la vida, la seguridad y las libertades de los defensores de los derechos humanos y a que adopten las medidas efectivas para investigar, procesar e imponer las sanciones adecuadas a cualquier persona responsable de las violaciones alegadas.

Las Resoluciones Directorales Ejecutivas (RDE) No. 085-2015-DE y 097-2015/APCI-DE

224. En cuanto a la comunicación PER 2/2015, el Relator Especial reitera su preocupación por las alegaciones recibidas indicando un posible impacto negativo de las RDE No. 085-2015-DE y 097-2015/APCI-DE sobre el ejercicio de los derechos de libre expresión y asociación. En este sentido, recuerda que las restricciones a los susodichos derechos sólo pueden aplicarse excepcionalmente, ser proporcionales a objetivos legítimos y obedecer estrictamente a intereses de seguridad nacional, integridad de la población, orden público, protección de la salud o moral públicas, o de protección de los derechos y

libertades de los demás, además de estar prescritas por ley y ser necesarias en una sociedad democrática, es decir de existir una necesidad social acuciante para una injerencia (Artículo 22 de Pacto Internacional de Derechos Civiles y Políticos, el cual Perú ratificó el 28 de abril de 1978).

225. En este contexto, insta las autoridades a revocar leyes y disposiciones que violan estándares internacionales, así como a abstenerse en interferir con las libertades de expresión y asociación cuando no sea necesario, de conformidad con sus obligaciones internacionales.

Venezuela (Bolivarian Republic of)

226. JAL 27/03/2015. Case no. VEN 4/2015. State reply: 29/05/2015; 18/06/2015. Muerte violenta de un menor de 14 años durante una protesta pacífica en San Cristóbal, Táchira.

227. JAL 08/05/2015. Case no. VEN 5/2015. State reply: None. Alegaciones sobre una nueva serie de actos de vigilancia, hostigamiento, intimidación y difamación contra defensores y defensoras de derechos humanos por su participación en sesiones de la Comisión Interamericana de Derechos Humanos

228. JAL 26/06/2015. Case no. VEN 7/2015. State reply: 29/09/2015. Alegaciones de una serie de actos de difamación y hostigamiento contra defensores de derechos humanos por su participación en la sesión del Comité del Pacto Internacional de Derechos Económicos, Sociales y Culturales.

229. JAL 20/07/2015. Case no. VEN 9/2015. State reply: None. Alegaciones de actos de intimidación contra defensores de derechos humanos a través de transmisiones de la canal estatal Venezolana de Televisión

230. JAL 09/11/2015. Case no. VEN 12/2015. State reply: 25/01/2016. Alegaciones de robo a mano armada en el domicilio de un defensor de derechos humanos junto con su hijo después de comentarios de carácter derogatorio y estigmatizante contra su organización de derechos humanos por parte de las autoridades.

231. JAL 03/12/2015. Case no. VEN 15/2015. State reply: 23/12/2015. Alegadas restricciones a derechos humanos a la libertad de expresión y asociación antes de un proceso electoral legislativo el 6 de Diciembre de 2015.

232. PR 22/07/2015 "Es hora de poner fin a las represalias televisadas contra defensores de derechos humanos en Venezuela"

233. PR 04/12/2015 "Las libertades fundamentales son clave para elecciones justas y pacíficas en Venezuela – Expertos en derechos humanos de la ONU"

Observaciones

Respuestas a comunicaciones

234. El Relator agradece las respuestas del Gobierno de Venezuela a sus comunicaciones VEN 4/2015 y VEN 12/2015. Sin embargo, lamenta no haber recibido una respuesta a su comunicaciones VEN 5/2015, VEN 7/2015, VEN 9/2015 y VEN 15/2015 y solicita a las autoridades a responder a los interrogantes planteados en estas comunicaciones en la mayor brevedad, de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos, que instan a los Estados a colaborar plenamente con su mandato.

235. El Relator Especial agradece el Gobierno por su respuesta a su comunicación VEN 4/2015 y toma nota del proceso judicial llevado a cabo en el caso de la muerte de un menor, Kluiverth Roa Núñez. Asimismo, toma nota de la legislación en vigor para proteger la libertad de reunión pacífica y de libertad de expresión. A su vez, el Relator Especial agradece la respuesta detallada del Gobierno venezolano a su comunicación del 9 de noviembre de 2015 (VEN 12/2015) en la cual expone las medidas tomadas para proteger los defensores de los derechos humanos. El Relator también toma nota de la respuesta del Gobierno en donde se aclaran las investigaciones iniciadas para determinar la posible existencia de algún delito y las medidas cautelares puestas a favor de las supuestas víctimas.

236. Con respecto al alto volumen de reportes e informaciones que todavía indican alarmantes violaciones a los derechos de reunión pacífica y de asociación, el Relator Especial advierte contra los entornos que puedan obstaculizar gravemente el disfrute de estos derechos y recuerda al Gobierno de la República Bolivariana de Venezuela su obligación de proteger activamente las reuniones pacíficas y asegurar que las personas que ejercen el derecho a la libertad de asociación puedan actuar libremente, sin temor a posibles amenazas, actos de intimidación o violencia, como arrestos o detenciones arbitrarios o campañas difamatorias en los medios de difusión; ambos derechos consagrados en el Pacto Internacional de Derechos Civiles y Políticos, ratificado por el país el 10 de mayo de 1978.

237. Recuerda que los derechos de reunión pacífica y de asociación son fundamentales para la plena participación de las personas en los asuntos públicos y una buena gobernanza (A/68/299, párrafo 6) y hace nuevamente hincapié en el papel de las asociaciones en general, y los partidos políticos en particular, como medios clave para el funcionamiento de un régimen democrático. El Relator Especial insta a la República Bolivariana de Venezuela a que reconozca que los derechos a la libertad de reunión pacífica y de asociación desempeñan un papel primordial en la democracia y asegure que nadie sea criminalizado, violentado ni intimidado por ejercer estos derechos.

238. El Relator Especial está muy preocupado por la creciente inseguridad y hostilidad en contra de las y los defensores de los derechos humanos en Venezuela (VEN 5/2015, VEN 7/2015, 9/2015, 12/2015). En particular, las campañas de desprestigio contras las y los defensores, la persistentes intimidaciones, incluyendo a través del monitoreo de sus actividades, algunas con respaldo de las autoridades públicas, las cuales tiene un efecto inhibidor para su trabajo e incrementan los riesgos a los que se enfrentan. Las alegaciones, de ser confirmadas, se enmarcarían en un contexto del persistente aumento de inseguridad para las y los defensores de los derechos humanos en la República Bolivariana de Venezuela. Reiteramos nuestra grave preocupación por lo que pareciera representar un patrón sistemático de detenciones arbitrarias en contra de personas que se identifican como opositores políticos.

239. En este contexto, expresamos grave preocupación por los actos de violencia contra quienes participan en eventos de campaña política y electoral, incluyendo el asesinato del Sr. Luis Manuel Díaz (VEN 15/2015) así como otros actos de intimidación por parte de grupos armados; situación que vulneraría el ejercicio legítimo de los derechos a la libertad de opinión y expresión, a la libertad de asociación y a la participación política.

240. El Relator Especial reitera sus serias inquietudes con respecto a la justificación de la violencia utilizada por parte de la Fuerza Armada Nacional Bolivariana para dispersar reuniones pacíficas, en flagrante oposición con las disposiciones del derecho internacional y las obligaciones que el país se comprometió a respetar y garantizar (VEN 4/2015).

241. Los Estados tienen la obligación de proteger activamente y promover la celebración de reuniones pacíficas y para ello debe existir una presunción favorable del rol indispensable que aquéllas desempeñan en las sociedades democráticas. Reitera, a su vez,

que según el PIDCP, sólo podrán en contadas excepciones aplicarse ciertas restricciones al derecho de reunión, las cuales deberán ser proporcionales a la consecución de legítimos objetivos y obedecer estrictamente a intereses de seguridad nacional, integridad de la población, orden público, protección de la salud o moral públicas, o de protección de los derechos y libertades de los demás, además de estar prescritas por ley y ser necesarias en una sociedad democrática, es decir de existir una necesidad social acuciante para una injerencia.

Visita de país

242. El Relator Especial confía en que el Gobierno de la República Bolivariana de Venezuela responderá favorablemente a sus solicitudes de visita hechas en 2011 y 2013. Recuerda que el Consejo de Derechos Humanos exhorta a los Estados a que colaboren plenamente con el Relator Especial en el desempeño de sus funciones y consideren favorablemente sur solicitudes para realizar visitas (A/HRC/RES/24/5, OP 6).

V. Asia-Pacific region

243. The Special Rapporteur sent a total of 47 communications to 19 countries in the Asia-Pacific region in the period covered by this report, 17 of which were follow-up to previous communications.

244. The Special Rapporteur remains concerned about the number of cases of criminalization of, and instances of threats and physical attacks against, individuals exercising their rights to freedom of peaceful assembly and/or association in the region. He is also concerned about the several legislative developments in the region that are bound to hinder the exercise of the rights to freedom of peaceful assembly and of association.

245. He reiterates that in democratic societies, demonstrations and protests represent a central mechanism for raising awareness about political and social concerns, including on environmental, labour or economic issues, to hold both Governments and corporations accountable.

246. The Special Rapporteur calls again on States to pay particular attention to the plights of groups at risk. He noted that in this region, groups at high risk of violations, including journalists, trade unionists, environmental activists and indigenous peoples, among others, face considerable opposition, harassment and , stigmatization from State and non-State actors because of their views and human rights activities. He urges the Governments to improve the situations of these often marginalized groups and recalls that the State retains the primary responsibility for ensuring the protection and promotion of their rights. In that this regard, he asked asks that positive measures, including affirmative action initiatives, be taken to ensure that ali individuals belonging to groups most at risk have the ability to exercise effectively exercise their rights, including the rights to freedom of peaceful assembly and of association.

Afghanistan

247. JAL 17/12/2015. Case no. AFG 3/2015. State reply: None. Landmine attack against members of the Afghanistan Independent Human Rights Commission (AIHRC).

Observations

Responses to communications

248. The Special Rapporteur regrets that he has not yet received a response to his communication sent during the reporting period, and reminds the Government of Afghanistan that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in this letter, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

249. The Special Rapporteur reiterates his grave concern at the fatal attack carried out against members of the AIHRC, which appears to be in direct retaliation for their human rights work both in Nangerhar Province and in Afghanistan and which can have a chilling effect on other defenders promoting and protecting human rights in the country. He reminds the Government of Afghanistan of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Australia

250. JAL 15/04/2015. Case no. AUS 4/2015. State reply: 03/06/2015. Allegations concerning the Federal Government's discontinuing of funding for basic services in remote aboriginal communities, which may affect more than 100 such communities in the state of Western Australia.

251. JAL 12/02/2016. Case no. AUS 1/2016. State reply: 13/04/2016. Alleged restrictions on the rights to peaceful assembly and freedom of expression in provisions of the Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015 in the state of Western Australia.

252. PR 15/02/2016 UN human rights experts urge Western Australia's Parliament not to pass proposed anti-protest law

Observations

Responses to communications

253. The Special Rapporteur thanks the Government of Australia for its replies to the communications sent during this reporting period.

254. The Special Rapporteur wishes to underscore again that indigenous peoples are a group at risk based on their level of marginalization in the exercise of the rights to freedom of peaceful assembly and of association (A/HRC/26/29, para. 10). He recalls that "[t]he rights to freedom of peaceful assembly and of association play a key role in empowering individuals belonging to groups most at risk to claim other rights and overcome the challenges associated with marginalization. Such rights must therefore not only be protected, but also facilitated. It is the responsibility of all stakeholders to ensure that the voices of individuals belonging to groups most at risk are heard, and taken into account, in compliance with the principles of pluralism of views, tolerance, broadmindedness and equity" (para. 72).

255. The Special Rapporteur reiterates his concerns that the provisions of the Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015 in the state of Western

Australia are so broad as to prohibit peaceful acts of protest and establish prohibitions that go far beyond the legitimate restrictions established by the International Covenant on Civil and Political Rights, especially articles 19 and 21. He remains also concerned that the mandatory and disproportionate penalties could have the deterrent effect on the legitimate exercise of the right to peaceful assembly and the right to freedom of expression, silencing and punishing human rights defenders and any dissenters that hinder, obstruct or prevent a lawful activity. He urges the relevant authorities to amend the draft to bring it into compliance with international human rights norms and standards.

Bangladesh

256. JAL 10/04/2015. Case no. BGD 1/2015. State reply: 17/04/2015. Allegations of summary executions.

257. JUA 12/08/2015. Case no. BGD 5/2015. State reply: None. Alleged stigmatization of two human rights non-governmental organizations by the police, and possible threats against a human rights defender, his relatives and colleagues.

258. JAL 02/10/2015. Case no. BGD 6/2015. State reply: 06/11/2015. Alleged acts of harassment and intimidation against human rights defenders, and against relatives of victims of enforced disappearances and against a group of non-governmental organizations.

259. PR 06/11/2015 Bangladesh NGOs: UN expert warns against proposed funding bill

Observations

Responses to communications

260. The Special Rapporteur takes note of the responses of the Government of Bangladesh acknowledging receipt of his communications. However, he regrets that the Government failed to provide substantial responses to the questions raised in the communications since the establishment of the mandate in 2011. He considers responses to his communications as an important part of the cooperation of governments with his mandate and again urges the authorities to comply with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) on the rights to freedom of peaceful assembly and association that call upon States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications. In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

261. The Special Rapporteur reiterates his deep concern about the indiscriminate use of petrol bomb attacks by opposition demonstrators, as well as the excessive use of force by security forces, including apparent extrajudicial killings, which have led to the death of at least 49 and 32 individuals respectively. He urges the authorities to undertake thorough and independent investigations into these cases, hold the perpetrators accountable, and provide remedies to the victims and families of victims. In this regard, he wishes to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is highly relevant to the present case.

262. The Special Rapporteur remains concerned about the media release issued by the police alleging defamation that targets the legitimate human rights work of Odhikar and BAMAK, which have a "chilling effect" on all organizations monitoring human rights violations, in particular those receiving foreign funding. This intimidating action on the part of the police could contribute to stifling reporting on issues of public interest, including on human rights violations, and restrict the legitimate exercise of the right to freedom of

expression and opinion and the right to seek, impart and receive information. He reiterates his serious concerns regarding the physical and psychological integrity of Mr. Adilur Rahman Khan, his relatives and colleagues, and all human rights defenders denouncing alleged violations committed by law enforcement authorities in Bangladesh.

263. The Special Rapporteur further remains concerned about the sudden cancellation of a commemorative event in Dhaka on the occasion of the International Day of the Victims of Enforced Disappearances scheduled on 30 August 2015, as well as about the intimidation of the victims' families. Such incidents appear to be related to their legitimate and peaceful work as human rights defenders, and part of a wider effort by Government authorities to silence the voices of those speaking out against enforced disappearances and exercising their legitimate rights to freedom of expression, freedom of peaceful assembly and freedom of association. He is particularly concerned that these alleged measures are also an attempt to maintain a climate of impunity for crimes committed by State authorities.

264. The Special Rapporteur remains deeply concerned about the draft Foreign Donations (Voluntary Activities) Regulation Act, which will be considered during the next parliamentary session. He reiterates all the concerns he has made on this Bill in the past years (see PR 06/11/2015). He calls on again the authorities "not to adopt the Bill as its purpose clearly violates the right to freedom of association, and has a ricochet effect on the realization of other human rights, as well as on the delivery of aid in a country prone to natural disasters. [He] stand[s] ready to provide assistance to the Government to help ensure that the Bill complies with international human rights law" (PR 06/11/2015).

265. More generally, the Special Rapporteur reminds the Government of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

Country visit

266. The Special Rapporteur reminds the Government of his pending requests to visit Bangladesh, as indicated by letter on 27 January 2014. He trusts that such a visit would allow him to examine issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Cambodia

267. AL 08/05/2015. Case no. KHM 2/2015. State reply: None. Follow-up communication regarding draft legislation on association.

268. JAL 10/08/2015. Case no. KHM 3/2015. State reply: None. Alleged judicial harassment of a Cambodian human rights defender and leader of a human rights organization.

269. JUA 18/11/2015. Case no. KHM 5/2015. State reply: None. Alleged arbitrary arrest and continued detention of four human rights defenders, and the ban imposed on a human rights training session.

270. JAL 03/12/2015. Case no. KHM 6/2015. State reply: None. Alleged physical harassment of Mr. Kung Sophea and Mr. Nhay Chamraoen, two Parliamentarians of the main opposition Cambodia National Rescue Party (CNRP) in their legitimate and peaceful

exercise of the right to freedom of association and the right to participate in political and public life.

271. JUA 21/12/2015. Case no. KHM 7/2015. State reply: 14/01/2016. Allegations of arbitrary arrest and detention, and lack of due process guarantees and fair trial of members of the opposition parties Cambodia National Rescue Party (CNRP) and Sam Rainsy Party (SRP- which later merged into CNRP), on the basis of their political views.

272. PR 22/05/2015 Cambodian civil society excluded from NGO bill drafting process, UN rights expert warns

273. PR 15/07/2015 "Cambodia's NGO Bill threatens a free and independent civil society" – UN expert urges Senate to reject it

Observations

Responses to communications

274. The Special Rapporteur takes note of the response of the Government of Cambodia to his joint communication of 21 December 2015 (KHM 7/2015) informing his fellow Special Rapporteur Ms. Rhona Smith that the letter should be directed to the judiciary. He looks forward to receiving a detailed response shortly. However, he regrets that the Government failed to respond to all the other communications sent during the reporting period. He considers responses to his communications as an important part of the cooperation of governments with his mandate and again urges the authorities to comply with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010) on the rights to freedom of peaceful assembly and association that call upon States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications.

275. The Special Rapporteur reiterates all the serious concerns he made in his various communications and press statements on the draft Law on Associations and Non-Governmental Organisations (LANGO), which later became an Act of Parliament, which is unequivocally threatens the very existence of a free and independent civil society in Cambodia. He urges the Government to review the law and bring it in compliance with international human rights norms and standards without delay.

276. He further reiterates his concern that the judicial procedures against Mr. Chakrya are related to his legitimate and peaceful work providing legal assistance in Cambodia, and that it is an attempt to dissuade him from continuing his work in cases concerning land rights and, more broadly, to quell criticism and deter individuals from exercising their legitimate right to freedom of association in Cambodia.

277. Similarly, he reiterates serious concerns about the alleged arbitrary arrest and continued detention of Messrs. Try Sovikea, Sun Mal, Sim Samnang and Ven Vorn, which appear directly related to their legitimate human rights work, defending and exercising their rights to freedom of opinion and expression, peaceful assembly and association. Further concern is reiterated that the ban imposed on the human rights training session and the threat to arrest the participants may be linked to the legitimate human rights activities of Mother Nature who work closely with local communities to teach them about methods of direct but peaceful action to protect their environment and human rights.

278. The Special Rapporteur also remains concerned about the physical harassment of Mr. Kung Sophea and Mr. Nhay Chamraoen, two parliamentarians belonging to the main opposition party CNRP, in their legitimate and peaceful exercise of the rights to freedom of opinion and expression, freedom of association and to participate in political and public life. Similarly, serious concern is reiterated at the alleged arbitrary arrest, in some cases

alleged arbitrary detention, prosecution and unfair trial of other members of CNRP, which seems directly related to their political views and membership in the opposition party and to the exercise to their rights to freedom of expression, association and peaceful assembly. Further concern is reiterated at the alleged arbitrary arrest, unfair trial, continued detention and health deterioration of Mr. Hong Sok Hour, a Senator for the Sam Rainsy Party and the alleged arbitrary removal of the parliamentary status and immunity of Mr. Sam Rainsy, both of which appear directly related to their political views and memberships in the opposition party and to their exercise to their rights to freedom of expression, association and peaceful assembly. Concern is also expressed again at the interference in the work of legitimate human rights organizations and defenders, such as doctors from LICADHO.

279. Overall, the Special Rapporteur is deeply concerned about the escalating trend of suppression of criticism against the Government, be they emanating from political parties or non-governmental organizations, which seems to be precipitated by the forthcoming elections – the communal election scheduled for 2017 and the National Assembly election scheduled for 2018 - in an attempt to silence and intimidate critical voices. In this regard, he reminds the Government of Cambodia of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or threats of any sort. He also wishes to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is particularly relevant to the present situation in Cambodia, most notably in relation to the 'Black Monday' Campaign.[2]

Country visit

280. The Special Rapporteur reminds the Government of his pending requests to visit Cambodia, as indicated by letters on 23 September 2011 and 30 October 2013. He trusts that such a visit would allow him to examine in situ issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

China (People's Republic of)

281. JAL 16/04/2015. Case no. CHN 2/2015. State reply: 21/05/2015. Allegations relating to a new draft law on overseas NGOs which, if adopted without changes, would violate international law and standards related to the rights to freedom of association and of peaceful assembly and the right to freedom of opinion and expression.

282. JAL 26/11/2015. Case no. CHN 11/2015. State reply: 22/01/2016. Alleged demolition of 37 Christian Catholic and Protestant churches, removal of over 500 churches in Zhejiang Province and enforced disappearance of a Pastor for protesting the planned demolition of a church.

283. JAL 23/12/2015. Case no. CHN 13/2015. State reply: 10/02/2016. Alleged sentencing of a human rights defender.

[2] See the press release issued after the reporting period: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19954&LangID=E

284. JUA 15/01/2016. Case no. CHN 1/2016. State reply: 28/02/2016. Alleged arbitrary arrest and detention of six labour activists and human rights defenders.

285. PR 16/07/2015 "Lawyers need to be protected not harassed" – UN experts urge China to halt detentions

Observations

Responses to communications

286. The Special Rapporteur thanks the Government of China for its responses to all the communications sent during the reporting period, the majority of which are still awaiting translation at the time of drafting this report.

287. He expresses his deep disappointment at the adoption on 28 April 2016 by the National People's Congress of the Law on the Management of Foreign Non-Governmental Organizations' Activities on 28 April 2016, which will enter into force on 1 January 2017. He believes that the "excessively broad and vague provisions, and administrative discretion given to the authorities in regulating the work of foreign NGOs, can be wielded as tools to intimidate, and even suppress, dissenting views and opinions in the country... [Furthermore, it is feared that] this Law will severely hinder the work of civil society organizations whose work is deemed sensitive by the authorities, and it will have a detrimental impact on the existence and operations of domestic NGOs that cooperate with foreign NGOs and/or are dependent of funding from them, and which carry out activities in the field of human rights, including economic and social rights".[3]

288. While awaiting the translation of the responses received, the Special Rapporteur remains gravely disturbed by allegations of arrests, criminalization, harassment of families and disappearance of individuals, including lawyers and trade unionists, as a result of the exercise of their rights to freedom of peaceful assembly and/or freedom of association. He is equally concerned about the situation of individuals similarly targeted in the Tibet Autonomous Region and neighbouring provinces because of the exercise of these rights. To this end, he urges the authorities of China to respect, protect and fulfil the rights of everyone to free association and peaceful assembly. In this regard, he reminds the Government of China of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or threats of any sort. He also wishes to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is particularly relevant to the present situation in the country.

Country visit

289. The Special Rapporteur reminds the Government of his pending requests to visit China, as indicated by letters on 23 September 2011 and on 15 November 2013. He trusts that such a visit would allow him to examine in situ issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

[3] See the press release issued after the reporting period: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19921&LangID=E

India

290. JAL 04/08/2015. Case no. IND 6/2015. State reply: 23/09/2015. Allegations concerning the unfounded investigation and charges against two human rights defenders in relation to their legitimate human rights work, as well as measures restricting access to their organizations' funding.

291. JAL 18/06/2015. Case no. IND 7/2015. State reply: 17/08/2015. Alleged arbitrary freezing of Greenpeace India's bank accounts.

292. JUA 12/08/2015. Case no. IND 8/2015. State reply: None. Alleged arbitrary arrest and detention of two women human rights defenders.

293. JAL 11/09/2015. Case no. IND 10/2015. State reply: 23/09/2015. Allegations of human rights violations committed by law enforcement authorities in Manipur.

Observations

Responses to communications

294. The Special Rapporteur thanks the Government of India for its responses to the communications of 4 August 2015 (IND 6/2015) and 18 June 2015 (IND 7/2015). He takes of the Government's acknowledgement of the letter dated 11 September 2015 (IND 10/2015); and he regrets that his communication dated 12 August 2015 is left unanswered. He urges the Government to provide a detailed response to both communications without delay.

295. The Special Rapporteur reiterates his concern about the alleged arbitrary arrest and detention of Ms. Mallik and Ms. Gond, which appear to be linked to their legitimate work to protect the environment and the human rights of tribal and indigenous forest communities in Sonbhadra, Uttar Pradesh, and, in particular, their recent involvement in non-violent protests in the district.

296. Similarly, he reiterates concern about the arbitrary detention, intimidation and harassment of human rights defenders in the Manipur region and at the apparent role of the law enforcement authorities in these acts. Further concern is reiterated that the charges brought against them appear to be an attempt to dissuade them in the pursuance of their legitimate and peaceful human rights activities and exercising their respective rights to freedom of expression, peaceful assembly and association, including advancing the rights of indigenous peoples, silencing criticism of activities by law enforcement authorities in Manipur, and highlighting alleged rights violations committed under the auspices of the Armed Forces Special Powers Act.

297. The Special Rapporteur remains concerned about the targeting of Ms. Setalvad and Mr. Anand, as well as their organizations, as a result of their peaceful and legitimate human rights work, including the legal assistance provided by Citizens for Justice and Peace in Ms. Jafri's ongoing petition. He urges the authorities to cease such targeting.

298. In this connection, he reminds the Government of India of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

299. The Special Rapporteur expresses once again concern at the restrictions imposed on Greenpeace India, which appear to be based solely on its activities in promotion of human rights, including a safe, clean environment. More generally, serious concern is expressed at the apparent increasing limitation placed on associations, including limitations on their access to foreign funding and the undue cancellation of their registration on the basis of

burdensome administrative requirements imposed to those organizations in receipt of foreign funds.

300. In this regard, the Special Rapporteur believes that the Foreign Contribution Regulation Act 2010 and Foreign Contribution Regulation Rules 2011 fail to comply with international human rights norms and standards as they impose "a total ban on associations' access to foreign funding on vaguely defined grounds for a broad purpose not included in the International Covenant on Civil and Political Rights' enumerated list of legitimate aims".[4]

Country visit

301. The Special Rapporteur reminds the Government of India of his pending requests to visit the country, as indicated by letters on 26 September 2014. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

Indonesia

302. JAL 08/09/2015. Case no. IDN 7/2015. State reply: None. Alleged threats and intimidation of a human rights defender in West Papua province.

303. JAL 09/10/2015. Case no. IDN 8/2015. State reply: None. Alleged excessive use of force by Indonesian security forces in Papua Province which resulted in the death of nine individuals and injured several persons.

Observations

Responses to communications

304. The Special Rapporteur regrets that he has not yet received a response to his communications sent during the reporting period, and reminds the Government of Indonesia that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in them, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

305. The Special Rapporteur reiterates his concern at at the threats made against Mr. Hesegem, which appear to be a clear attempt to dissuade him from documenting human rights abuses committed by local and regional police in the West Papuan highlands. Similarly, He remains concerned at the apparent role of local and regional police in the on-going intimidation and harassment of Mr. Hesegem, which appears to be related to the legitimate exercise of his right to freedom of expression. He reminds the Government of Indonesia of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or threats of any sort.

[4] See the information note released on 20 April 2016 on the Foreign Contribution Regulation Act and Rules: http://www.ohchr.org/Documents/Issues/FAssociation/InfoNoteIndia.pdf

306. The Special Rapporteur further reiterates his grave concern at what appears to be a pattern of excessive use of force by Indonesia security forces against indigenous peoples in Papua Province, which has resulted in the killing of nine persons and injuries to many others. In several instances, they were exercising peacefully their rights to freedom of opinion, expression, assembly and association. He remains also concerned that the alleged use of firearms and excessive force by Indonesian law enforcement personnel appears to target primarily members of indigenous Papuan communities. He urges the authorities to undertake a thorough and independent investigation into these cases, hold the perpetrators accountable, and provide remedies to the victims and families of victims. He also wishes to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is particularly relevant to the present situation.

Country visit

307. The Special Rapporteur reminds the Government of his pending requests to visit Indonesia, as indicated by his letters on 23 September 2011 and 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

Iran (Islamic Republic of)

308. JAL 12/05/2015. Case no. IRN 4/2015. State reply: 04/03/2016. Alleged mass arrest and harassment of Ahwazi Arabs minorities in Khuzestan Province.

309. JUA 19/05/2015. Case no. IRN 5/2015. State reply: 16/03/2016. Alleged arrest, detention and unfair trial of human rights defender, Ms. Narges Mohammadi.

310. JAL 05/10/2015. Case no. IRN 17/2015. State reply: None. Alleged custodial death of a political prisoner in Iran.

311. JUA 29/10/2015. Case no. IRN 20/2015. State reply: 04/03/2016; 16/03/2016. Alleged arbitrary detention, sentencing to flogging and subjecting human rights activist to virginity test.

312. JUA 22/01/2016. Case no. IRN 1/2016. State reply: None. Alleged arbitrary detention, denial of due process and of inadequate medical treatment of a human rights defender.

313. JUA 01/02/2016. Case no. IRN 2/2016. State reply: None. Alleged arbitrary detention and denial of adequate medical treatment to an elderly person.

Observations

Responses to communications

314. The Special Rapporteur thanks the Government of Iran for its responses to his communications of 12 May 2015 (IRN 4/2015), 19 May 2015 (IRN 5/2015) and 29 October 2015 (IRN 20/2015). He regrets, however, that he has not yet received a response to his other communications sent during the reporting period. He reminds the Government that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the

questions raised in this letter, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

315. The Special Rapporteur remains deeply disturbed by allegations that indicate an on-going trend of criminalization of human rights defenders and political activists exercising their rights to freedom of peaceful assembly and association, as illustrated by the aforementioned cases. Moreover, he reiterates grave concern at the reported instances of unfair trials as well as torture and ill-treatment and lack of access to or inadequate health care of activists, leading to the death of one political prisoner, while in detention facilities.

316. The Special Rapporteur urges the authorities of Iran to protect and promote the rights to free association and peaceful assembly. In this regard, he reminds the Government of Iran of its positive obligation to ensure that civil society, including human rights defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

317. He also wishes to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is particularly relevant to the present situation in the country.

Japan

1. JAL 15/06/2015. Case no. JPN 1/2015. State reply: 27/07/2015. Allegations of the use of unjustified harassment, excessive use of force and arbitrary arrests against peaceful protestors in Okinawa, including Mr. Masatsugi Isa, Mr. Hiroj Yamashiro, Mr. Dagakku Tanimoto, and Mr. Nakasone.

Observations

Response to communication

318. The Special Rapporteur thanks the Government of Japan for its response to his communication.

319. The Special Rapporteur takes note of the information received in the response from the Government. He, however, remains concerned about the excessive use of force and arrests of peaceful demonstrators who sought to protect the biodiverse ecosystem of Okinawa upon which local communities depend for their livelihoods and their culture. In this regard, he wishes to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is relevant to the present case.

Lao People's Democratic Republic

320. JAL 29/05/2015. Case no. LAO 1/2015. State reply: None. Allegations relative to a new draft Decree on associations and foundations which would not comply with international law and standards related to the rights to freedom of association and of opinion and expression, if adopted without further changes.

Observations

Response to communication

321. The Special Rapporteur regrets that he has not yet received a response to his communication sent during the reporting period, and reminds the Government of the Lao People's Democratic Republic that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in this letter, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

322. The Special Rapporteur reiterates his concern that numerous provisions contained in the draft Decree do not comply with international human rights law and standards pertaining to the freedom of opinion and expression and freedom of association, including the ability for associations to operate freely without State's undue interference.

323. The Special Rapporteur further reiterates his utmost concern about the disappearance of human rights defender and land activist Mr. Sombath Somphone in December 201.'. Further to his various communications, press releases and reports to the Human Rights Council, he urges once again the authorities to shed full light on his whereabouts, bring the alleged perpetrators to justice, and provide remedies to his family.

324. Overall, the Special Rapporteur urges the authorities of Lao People's Democratic Republic to protect and promote the rights to free association and peaceful assembly. In this regard, he reminds the Government of its positive obligation to ensure that civil society, including human rights defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Country visit

325. The Special Rapporteur reminds the Government of his pending requests to visit the Lao People's Democratic Republic, as indicated by his letters on 12 December 2011 and 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Malaysia

326. JAL 18/08/2015. Case no. MYS 3/2015. State reply: 30/03/2016. Alleged violations of freedom of expression and freedom of peaceful assembly in Malaysia, including the blocking of the website "Sarawak Report" and harassment of its journalists, as well as the suspension of two other news outlets and arrest of peaceful protestors.

327. JAL 16/12/2015. Case no. MYS 4/2015. State reply: None. Charges brought against a woman human rights defender for her role in organising peaceful protests.

Observations

Responses to communications

328. The Special Rapporteur thanks the Government of Malaysia for its response to his communication of 18 August 2015 (MYS 3/2015), but regrets that he has not yet received a response to his other communication sent during the reporting period (MYS 4/2015). He reminds the Government that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in this letter, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

329. The Special Rapporteur reiterates his serious concern about the apparent crackdown on independent voices in the media, including the blocking of access to material on the Internet, as well as about the use of the Sedition Act of 1948 to arrest, detain and charge human rights activists for exercising their rights to freedom of expression and freedom of peaceful assembly, promoting human rights and accountability in Malaysia.

330. He further reiterates his concern about the charges against Ms. Abdullah which he believes are related to her human rights activism and her exercise of the right to fundamental freedoms of expression, peaceful assembly and association.

331. He remains concerns at the continued targeting of members of BERSIH 2.0 despite previous appeals from various mandate-holders of the United Nations Special Procedures to your Excellency's Government to ensure protection and promotion of the rights of the coalition and its members.

332. In this regard, he wishes to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is highly relevant to the situation in the country.

333. He also reminds the Government of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

Country visit

334. The Special Rapporteur reminds the Government of his pending requests to visit Malaysia, as indicated by his letters on 23 September 2011 and 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider his requests for visits favourably.

Myanmar

335. JUA 06/03/2015. Case no. MMR 2/2015. State reply: 15/05/2015. Alleged peaceful assembly of more than 300 security personnel near Aung Myay Bateman monastery, near to Letpadan in northern Yangon Region on 3 March 2015 in response to approximately 150 students peacefully protesting for amendments to the National Education law.

336. JUA 07/04/2015. Case no. MMR 3/2015. State reply: None. Alleged arbitrary detention of peaceful protestors against electricity hikes as well as alleged bystanders.

337. JUA 10/04/2015. Case no. MMR 4/2015. State reply: 31/07/2015. Alleged arbitrary arrest and detention of individuals in relation to peaceful protests.

338. JUA 03/08/2015. Case no. MMR 8/2015. State reply: 14/11/2015. Alleged arbitrary detention of an activist for interfaith peaceful coexistence.

339. JUA 05/11/2015. Case no. MMR 11/2015. State reply: 11/01/2016. Allegations on multiple restrictions affecting the enjoyment of the right to freedom of opinion and expression in advance of the parliamentary election in Myanmar on 8 November.

Observations

Responses to communications

340. The Special Rapporteur thanks the Government of Myanmar for its response to four of his communications out of five sent during the reporting period. He regrets that he has not yet received a response to his fifth communication.

341. The Special Rapporteur acknowledges that all the communications sent during the reporting period concerned the previous State administration. He warmly welcomes the waves of release of political prisoners, including the students who were peacefully protesting for amendments to the National Education law.

342. The Special Rapporteur notes the many human rights challenges that need to be addressed in a meaningful manner, as identified by the Special Rapporteur on the situation of human rights in Myanmar (A/HRC/31/71). In this regard, he is encouraged by current efforts towards legislative reform, notably of the Law on the Right to Peaceful Assembly and Peaceful Procession. He calls on the authorities to ensure that the revised legislation fully complies with international human rights norms and standards. In this regard, he stands ready to provide technical assistance as deemed necessary.

343. The Special Rapporteur remains seriously concerned about, inter alia, the human rights situation in Rakhine State, and the discrimination and persecution suffered by the Rohingya community. He calls on the new Government to bring positive tangible change in this regard.

Country visit

344. The Special Rapporteur reminds the Government of his pending requests to visit Myanmar, last indicated by letter on 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider his requests for visits favourably.

Nepal

345. JAL 20/08/2015. Case no. NPL 2/2015. State reply: None. Alleged excessive use of force by the police to disperse a peaceful protest in Kathmandu, and serious injuries sustained by several protestors.

Observations

Response to communication

346. The Special Rapporteur regrets that he has not yet received a response to his communication sent during the reporting period, and reminds the Government of Nepal that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in this letter, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

347. The Special Rapporteur reiterates his serious concerns about the reported excessive use of force against peaceful demonstrators by police forces in the dispersing of a peaceful protest for Dalit human rights. In this regard, he wishes to refer to the joint he report on the proper management of assemblies he prepared with Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is highly relevant to the present case. With reference to the announcement made in August 2015 by the Government of the establishment of a committee to investigate these allegations, the Special Rapporteur looks forward to receiving detailed information on any progress made in relation to the investigations undertaken.

348. More generally, the Special Rapporteur also reiterates his concerns about the situation of Dalit human rights defenders, including women human rights defenders, who are most at risk of attacks and retaliation. In this regard, he also reminds the Government of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

Country visit

349. The Special Rapporteur reminds the Government of his pending request to visit Nepal, as indicated by his letter on 26 September 2014. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Pakistan

350. JAL 02/12/2015. Case no. PAK 12/2015. State reply: None. Allegations on the killing of a Pakistani journalist and human rights activist related to the exercise of his legitimate rights to freedom of opinion and expression.

351. JUA 25/02/2016. Case no. PAK 4/2016. State reply: None. Alleged arbitrary arrest, detention and charging of human rights defender.

Observations

Responses to communications

352. The Special Rapporteur regrets that he has not yet received a response to his communications sent during the reporting period, and reminds the Government of Pakistan that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the

questions raised in these letters, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

353. The Special Rapporteur reiterates his grave concern about the killing of Mr. Mehsud, which illustrates the violent and dangerous conditions facing journalists, media workers and human rights defenders in Pakistan when exercising their legitimate rights to freedom of opinion and expression and of association. He urges the authorities to undertake a thorough and independent investigation into this case, hold the perpetrators accountable, and provide remedies to the family of the victim.

354. In relation to the case of Mr. Baloch, the Special Rapporteur reiterates his concern about his arrest, incommunicado detention and charges brought against him, which he believes are in linked to his legitimate human rights work and peaceful social activism. Concern is also reiterated in relation to the conditions of his detention, given that neither his family nor his legal counsel has reportedly been allowed to visit the detainee. He urges the authorities to release Mr. Baloch without delay.

355. More generally, the Special Rapporteur urges the Government to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Country visit

356. The Special Rapporteur reminds the Government of his pending requests to visit Pakistan, as indicated by his letter sent in September 2011 and October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Philippines

357. JAL 15/06/2015. Case no. PHL 3/2015. State reply: None. Alleged surveillance of the Southern Mindanao office of the Alliance for the Advancement of People's Rights (Karapatan) and the intimidation of its members.

Observations

Response to communication

358. The Special Rapporteur regrets that he has not yet received a response to his communication sent during the reporting period, and reminds the Government of the Philippines that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in these letters, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

359. The Special Rapporteur reiterates his concern at the surveillance and intimidation of the members of Alliance for the Advancement of People's Rights (Karapatan), as well as the surveillance on their office, which he believes are linked to their peaceful and legitimate human rights activities and the exercise of their rights to freedom of expression and association.

360. He reminds the Government of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

Country visit

361. The Special Rapporteur reminds the Government of his pending requests to visit the Philippines, as indicated by his letter sent in September 2011 and October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Republic of Korea

362. JUA 11/06/2015. Case no. KOR 2/2015. State reply: 01/02/2016. Alleged excessive use of force and detention of protestors and human rights activists during peaceful protests commemorating the Sewol ferry accident and during the Labour Day march.

363. JAL 20/11/2015. Case no. KOR 3/2015. State reply: 20/05/2016 (link not yet available). Denial of entry and deportation of a human rights defender which impeded his attendance at an international civil society event.

Observations

Responses to communications

364. The Special Rapporteur thanks the Government of the Republic of Korea for its response to his communications.

365. He refers to his report on his visit to the Republic of Korea undertaken from 20 to 29 January 2016 (A/HRC/32/36/Add.2) for an assessment of the situation of the rights to freedom of peaceful assembly and of association in the country.

Singapore

366. JAL 30/10/2015. Case no. SGP 2/2015. State reply: 24/12/2015, 24/03/2016. Alleged charges against a human rights defender and blogger for exercising her right to freedom of peaceful assembly.

Observations

Response to communication

367. The Special Rapporteur thanks the Government of Singapore for its response to his communication.

368. The Special Rapporteur takes note of the information received in the two responses from the Government, including the information provided to the Special Rapporteur on the situation of human rights defenders. He, however, remains concerned about the trial opened against Ms. Han Hui Hui and her fellow protestors on charges which appear to be solely

based on their efforts to promote and protect human rights and on their legitimate exercise of the rights to freedom of peaceful assembly and freedom of opinion and expression.

369. He wishes to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is highly relevant to the present case.

Thailand

370. JUA 27/05/2015. Case no. THA 5/2015. State reply: 02/06/2015. Alleged killing and attempted killing of former detainees charged with security-related offenses in Thailand, including three members of the Justice for Peace Network (JOP).

371. JUA 16/07/2015. Case no. THA 7/2015. State reply: 20/07/2015. Alleged arbitrary detention, prosecution, and trial before a military court of 14 students belonging to the Neo Democracy Movement (NDM) due to their participation in peaceful protests.

372. JUA 25/02/2016. Case no. THA 9/2015. State reply: 29/02/2016. Alleged charges, detention and/or convictions of 26 persons in relation to lèse-majesté offences, for having exercised their right to freedom of opinion and expression.

Observations

Responses to communications

373. The Special Rapporteur thanks the Government of Thailand for its responses to his communications of 16 July 2015 (THA 7/2015) and 25 February 2016 (THA 9/2015). He takes note of the acknowledgement made by the Government of his communication of 27 May 2015 (THA 5/2015), and looks forward to receiving substantial information on the concerns raised in this letter.

374. The Special Rapporteur reiterates his grave concern about the killing of Mr. Masawee Masalae and the attempted killings of Mr. Torlep Sapa-Ing, Mr. Rorsuwan Bu-Nae and Mr. Arsae Niseng, as well as the reported failure of the police to protect them and other persons in a similar situation, and to investigate these acts. Further concern is reiterated that the attacks appear to target former detainees initially charged with security-related offenses but subsequently acquitted or released for lack of evidence, in Yala Province and Pattani Province, in Thailand, including three members of the Justice for Peace Network (JOP). He urges the authorities to undertake a thorough and independent investigation into these cases, hold the perpetrators accountable, and provide remedies to the victims and families of victims.

375. While noting the response of the Government to his letter of 16 July 2015, the Special Rapporteur reiterates his serious concern that the alleged arbitrary detention, prosecution, and trial before a military court of the 14 students were linked to their participation in a series of peaceful protests against the current regime and forced evictions of rural communities in north-eastern Thailand. He remains concerned about the fact the students were tried before a military court despite their status as civilians. He stresses that military tribunals should have jurisdiction only over military personnel who commit military offences or breaches of military discipline, and only when those offences or breaches do not amount to serious human rights violations.

376. The Special Rapporteur remains particularly worried about the context in which restrictions to multiple rights and fundamental guarantees against human rights defenders and political opponents in Thailand have taken place, following the military coup and imposition of martial law. He stresses that while the Government does not have to agree

with the opinions and criticisms expressed by people who embrace different convictions or beliefs, it has a positive obligation to ensure that civil society, including human rights defenders and political opponents, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

377. In this regard, he reiterates his disagreement with the rationale behind the use of the lèse-majesté legislation as a means to protect the rights and reputation of the King of Thailand and the necessity to uphold national security and public order. He considers that it does not comply with Thailand's international human rights obligations, which include the International Covenant on Civil and Political Rights. In that regard, he requests again further information on the measures taken, in order to repeal or amend the lèse-majesté laws and to bring domestic legislation into conformity with Thailand's obligations under international human rights instruments.

378. The Special Rapporteur wishes finally to refer to the joint report on the proper management of assemblies he prepared with the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/31/66), which is highly relevant to the present situation in Thailand.

Country visit

379. The Special Rapporteur reminds the Government of his pending requests to visit Thailand, as indicated by his letter sent in September 2011 and October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

Viet Nam

380. JUA 06/01/2015. Case no. VNM 3/2015. State reply: None. Alleged physical assault, arrest and detention of human rights defenders.

Observations

Response to communication

381. The Special Rapporteur regrets that he has not yet received a response to his communication sent during the reporting period, and reminds the Government of Viet Nam that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in these letters, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

382. The Special Rapporteur reiterates his serious concern about the physical assault of Mr. Nguyen, Mr. Vu, Mr. Ly and Mr. Le by Vietnamese police officers, and that such attacks appear to be increasingly used in the country as a means of intimidating human rights defenders to discourage them to exercise peacefully their rights to freedoms of expression and peaceful assembly to conduct their legitimate activities. He further reiterates his concern about the arrest and detention of Mr. Nguyen, which appear to be in retaliation for his cooperation with representatives of the European Union in the context of the annual EU-Viet Nam human rights dialogue.

383. More generally, the Special Rapporteur expresses grave concern about the increased persecution of members of civil society who seek to promote and protect human rights, or voice dissent against the Government, which include physical assaults by the police or by unidentified individuals. The Special Rapporteur reminds the Government of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

Country visit

384. The Special Rapporteur reminds the Government of his pending request to visit Viet Nam, as indicated by his letter sent in 2014. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

VI. Middle East and North Africa region

385. During the current reporting period, the Special Rapporteur sent 24 communications to 9 countries in the Middle East and North Africa region.

386. The Special Rapporteur is particularly concerned about the number of cases addressing allegations of violations of the right to freedom of peaceful assembly, and especially the right to freedom of association of, inter alia, human rights defenders and individuals expressing opinions of political dissent.

387. The Special Rapporteur emphasizes his concern about the various legal and illegal measures used to restrict the rights of civil society and human rights defenders, often for exercising the rights to freedom of association and freedom of expression in relation to their legitimate human rights work. Such measures reported have included the use of disproportionately restrictive legislation, arbitrary arrests, detention, prosecution, travel bans and torture.

388. The adoption of restrictive legislation, including security and counterterrorism legislation may have a significant impact that disproportionately restricts the right to freedom of association of civil society and human rights defenders and is of increasing concern in this region. The Special Rapporteur urges States to ensure that all new legislation and amendments adopted are compliant with the fundamental rights to freedom of peaceful assembly and association, in accordance with the International Convention on Civil and Political Rights, the Universal Declaration of Human Rights and the Arab Charter.

389. The Special Rapporteur reiterates that although the right to freedom of peaceful assembly and association is not absolute, any restrictions must be compliant with international human rights law, which provides that any limitations must be proportionate and a necessary response to a pressing social need. The Special Rapporteur urges States to implement and promote the rights to freedom of peaceful assembly and association in practice in the region.

Algeria

390. JUA 22/12/2015. Case No. DZA 3/2015. State reply: 22/03/2016. Allégations de détention arbitraire et harcèlement judiciaire d'un journaliste et défenseur des droits de l'homme.

Observations

Réponse à la communication

391. Le Rapporteur spécial remercie le Gouvernement algérien de sa réponse à sa communication.

392. Il note qu'une information judiciaire a été ouverte par le tribunal d'El Bayadh contre M. Bourras pour incitation des citoyens à la désobéissance civile, à la rébellion contre l'autorité de l'Etat, outrage au Président de la République. Le juge d'instruction a procédé à sa mise en détention provisoire. Il a par la suite prononcé le 17 janvier 2016 un non-lieu au sujet des charges criminelles (incitation des citoyens à la désobéissance civile et à la rébellion contre l'autorité de l'Etat), ce que le Rapporteur spécial note avec satisfaction. En revanche, il a retenu la charge d'outrage au Président de la République. Le non-lieu a fait l'objet d'un appel par le Parquet territorialement compétent, conduisant à la remise en liberté de M. Bourras. Le 28 février 2016, la chambre d'accusation a infirmé la décision du juge d'instruction, demandant la poursuite de l'enquête pénale, ce que le Rapporteur spécial déplore. Il réitère ses préoccupations quant au fait que l'arrestation et les poursuites engagées contre M. Bourras semblent être liées à ses activités légitimes et pacifiques en faveur de la défense des droits et à l'exercice de son droit à la liberté d'opinion et d'expression. Il exhorte les autorités compétentes à cesser toutes poursuites contre celui-ci.

393. Eu égard aux nombreuses informations qu'il reçoit régulièrement faisant état d'arrestation et de détention, souvent pour une courte durée, de militants associatifs ou syndicalistes, au cours de manifestations, le Rapporteur spécial réitère de sérieuses préoccupations quant à l'intégrité physique et psychologique de celles et ceux exerçant leurs droits à la liberté d'association et de réunion pacifique en Algérie. Il appelle les autorités à prendre des mesures positives pour protéger les acteurs associatifs et syndicalistes afin qu'ils puissent exercer leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

394. Plus généralement, il appelle les autorités à prendre toutes les mesures nécessaires pour assurer la mise en place d'un dialogue authentique avec les associations et les syndicats, y compris ceux critiques à l'égard du Gouvernement, dans la mesure où ils constituent des acteurs essentiels permettant aux autorités de prendre connaissance, d'appréhender et de traiter des aspirations et revendications de la population.

Visite de pays

395. Le Rapporteur spécial rappelle au Gouvernement ses demandes de visite formulées en 2011 et 2013. Il est convaincu qu'une visite du pays lui permettrait de mieux comprendre le contexte dans lequel le droit de réunion pacifique et d'association y est exercé et d'engager un dialogue constructif avec le Gouvernement sur ces questions. A la lumière des résolutions 15/21 et 24/... du Conseil des droits de l'homme qui appellent les Etats à répondre favorablement aux demandes de visite, il espère recevoir prochainement une réponse positive du Gouvernement.

Bahrain

396. JUA 27/11/2015. Case no. BHR 9/2015. State reply: 12/12/2015. Alleged arbitrary detention and prosecution of the Secretary General of the main opposition political party in Bahrain, Al-Wefaq National Islamic Society, and a well-known religious figure in the country.

397. PR 16/07/2015. "Bahrain: Freed from jail, now all charges against Nabeel Rajab must be dropped"

Observations

Responses to communications

398. The Special Rapporteur thanks the Government of Bahrain for its reply to the communication sent during this reporting period.

399. Regarding the case of Mr. Sheikh Ali al Salman, the Secretary General of the main opposition party in Bahrain, the Al-Wefaq National Islamic Society, and a well-known religious figure in the country (BHR 9/2015), the Special Rapporteur reiterates his serious concerns from his last Observations Report (A/HRC/29/25/Add.3, para. 504). The history of the targeting of Sheikh Ali al Salman and most recently, his sentencing to two years' imprisonment for his dissenting views and the exercise of his rights to freedom of association and freedom of opinion and expression, remain of serious concern.

400. The Special Rapporteur thanks the Government of Bahrain for the information provided about the conviction of Sheikh Al Salman and his appeal, which was delayed. However, the Special Rapporteur urges the Government of Bahrain to implement the Opinion of the Working Group of Arbitrary Detention, which concludes that Sheikh Al Salman is arbitrarily deprived of his liberty and calls for his release (A/HRC/WGAD/2015/23, para. 42). The Special Rapporteur would also appreciate additional information about the appeal of Sheikh Al Salman's sentence, which was delayed in late 2015.

401. In relation to the case of human rights defender, Mr. Nabeel Rajab, the Special Rapporteur acknowledged his release on bail for health reasons and called on the Government to drop the charges against him (PR 16/07/2015). Mr. Rajab was detained and charged for exercising his right to freedom of expression on the social media platform, Twitter and was previously subjected to reprisals.

402. The Special Rapporteur takes this opportunity to remind the Government that the term "association" denotes "any groups of individuals or any legal entities brought together in order to collectively act, express, promote, pursue or defend a field of common interests" and that the term refers to, among others, "civil society organizations, clubs, cooperatives, NGOs, religious associations, political parties, trade unions, foundations or even online associations" (A/HRC/20/27, paras. 51 and 52). He urges the Government of Bahrain to promote and protect the right to freedom of association to everyone in Bahrain, including those exercising their right to express opinions of political dissent.

Country visit

403. The Special Rapporteur reminds the Government of Bahrain of his pending requests to visit Bahrain, as indicated by his last letters of 2 September 2011 and 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established

his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Egypt

404. JAL 13/04/2015. Case no. EGY 4/2015. State reply: 28/07/2015. Allegations of charges against a woman human rights defender for witnessing the violent dispersal of a peaceful protest and the killing of a female activist.

405. JUA 01/06/2015. Case no. EGY 6/2015. State reply: 02/07/2015; 16/08/2015. Alleged arbitrary detention, torture and ill-treatment, as well as the denial of medical treatment of two children.

406. JOL 19/08/2015. Case no. EGY 9/2015. State reply: None. Allegation of undue restrictions on the right of everyone to freedom of artistic expression under Egyptian legislation on artistic censorship, and Minister of Culture Decrees.

407. JAL 12/06/2015. Case no. EGY 10/2015. State reply: 18/08/2015. Alleged growing restrictions on civil society and the increased targeting of human rights defenders in the context of the implementation of the NGO law and through the use of travel bans.

408. JOL 21/06/2015. Case no. EGY 11/2015. State reply: 05/08/2015. Alleged non-compliance of the national anti-terrorism draft law with the country's international human rights obligations, including a number of provisions of the International Covenant on Civil and Political Rights.

409. JAL 10/11/2015. Case no. EGY 16/2015. State reply: None. Alleged arrest, detention and charges to be brought against a journalist and human rights defender.

410. JUA 17/12/2015. Case no. EGY 17/2015. State reply: 02/02/2016. Allegations of arbitrary arrest, detention, and torture of a peaceful protestor and human rights defender.

411. JUA 08/02/2016. Case no. EGY 1/2016. State reply: None. Alleged arbitrary arrest and detention of two journalists for the exercise of their right to freedom of expression and association.

412. JUA 12/02/2016. Case no. EGY 2/2016. State reply: None. Alleged arbitrary arrest, detention and charges against three human rights defenders for their legitimate human rights work and the exercise of their rights to freedom of association and freedom of expression.

413. JAL 23/02/2016. Case no. EGY 3/2016. State reply: None. Alleged attempt to arbitrarily close a human rights organisation in violation of the rights to freedom of association and freedom of expression.

Observations

Responses to communications

414. The Special Rapporteur thanks the Government of Egypt for its replies and urges it to respond to the grave allegations contained in the letters sent on 8 February 2016 (EGY 1/2016), 12 February 2016 (EGY 2/2016) and 23 February 2016 (EGY 3/2016), as soon as possible.

415. He recalls the importance of responding to his communications as part of the Government's cooperation with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). In the absence of information to

the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

416. The Special Rapporteur expresses grave concern about the pattern of increasing violence and restrictions on civil society and human rights organisations in Egypt during this period, including human rights defenders involved in peaceful protests. He strongly reiterates his call for the Government of Egypt to fully implement its obligations to protect and promote the rights to freedom of peaceful assembly and association in the country, in accordance with articles 21 and 22 of the International Convention on Civil and Political Rights, and article 28 of the Arab Charter, ratified by Egypt in 1982 and signed by Egypt in 2004, respectively (A/HRC/29/25/Add.3, para. 145).

417. The Special Rapporteur strongly denounces the killing of Ms. Shaimaa Sabry Ahmed al-Sabbagh and 20 other individuals during protests on 24 January 2015 (EGY 4/2015). In this context, the Special Rapporteur would appreciate additional information regarding investigations into the death of Ms. Al-Sabbagh and whether anyone has been held accountable for her death. He calls on the Government of Egypt to ensure that the use of force by police and security forces are restricted by the principles of legality, precaution, necessity, proportionality and accountability, and takes this opportunity to refer the Government to his recent joint report on the proper management of assemblies (A/HRC/31/66).

418. In connection with the case of Ms. Azza Soliman, who was a witness of the killing of Ms. Al-Sabbagh, the Special Rapporteur welcomes her acquittal, as well as that of 16 other defendants on 24 October 2015 (EGY 4/2015). However, he remains seriously concerned that the charges brought against Ms. Soliman were because of her testimony concerning the killing of Ms. Al-Sabbagh.

419. The Special Rapporteur reiterates his concern about the targeting of the human rights defenders and journalists through measures such as arrest, detention, including lengthy pre-trial detention and judicial procedures. He urges the Government to release them and to protect their right to freedom of peaceful assembly and association, as well as the right to freedom of expression.

420. He welcomes the release of the human rights defender and journalist, Mr. Hossam Bahgat, on 10 November 2015 (EGY 16/2015). However, he remains seriously concerned that his arrest, detention and interrogation were as a result of his work for the human rights organization, the Egyptian Initiative for Personal Rights, and the online news site, Mada Masr. He refers to the PR of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression issued on 11 November 2015.

421. The Special Rapporteur strongly reiterates his concerns in the case of human rights defender and peaceful protestor, Mr. Mahmoud Mohamed Ahmed Hussein, concerning his arrest, detention and torture (EGY 17/2015). The Special Rapporteur acknowledges the short response of the Government of 2 February 2016 and would appreciate detailed information about any investigation conducted to verify the charges against Mr. Hussein, as well as the allegations of torture. He expresses grave concern for Mr. Hussein, who has been in pre-trial detention for over two years, where he remains, reportedly for exercising his right to freedom of peaceful assembly and freedom of expression. He urges the Government to respond to the communication sent.

422. The Special Rapporteur also expresses concern in the case of three members of the human rights organization, the Belady Foundation, namely Ms. Aya Hegazy, Mr. Mohamed Hassanein and Ms. Amira Farag, who were arrested, detained and charged (EGY 2/2016), allegedly for their human rights work. He urges the Government to respond to the communication sent.

423. Regarding the cases of journalists, Mr. Hisham Ahmed Awad Jafar and Mr. Ismail Alexandrani, the Special Rapporteur expresses serious concern about the apparent reason for their arrest and detention is for their work as journalists (EGY 1/2016). He urges the Government to respond to the communication sent.

424. The Special Rapporteur would like to take this opportunity to reminds the Government of Egypt of its obligation "to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law" (A/HRC/RES/24/5, operative para. 2).

NGO Law (84/2002)

425. NGO Law (84/2002) has been utilized arbitrarily against organisations who seek to carry out peaceful and legitimate human rights activities or express dissenting views. The Special Rapporteur calls on the Government to end the restrictions, including travel bans and licensing restrictions, on civil society exercising their right to freedom of association.

426. In the case of the Nadeem Center for the Rehabilitation of Victims of Violence and Torture, the Special Rapporteur expresses his serious concern about the "administrative closing order" issued and attempt to forcibly close the organisation under the NGO Law (EGY 3/2016). He urges the Government to respond to the communication sent.

427. Regarding the use of travel bans to restrict the movement of human rights activists to travel abroad (EGY 10/2015), the Special Rapporteur remains concerned in the cases of, inter alia, Mr. Hossameldin Ali, Ms. Esraa Abdel Fattah and Mr. Ahmed Ghonim of the Egyptian Democratic Academy, various staff members of the Cairo Institute for Human Rights Studies, and human rights defender, Mr. Mohamed Lotfy.

428. The Special Rapporteur repeats his calls to the Government of Egypt to review NGO Law (84/2002) and to bring it into line with international human rights norms and standards.

Laws and Ministerial Decrees on artistic censorship

429. Several laws and Ministerial Decrees impose severe restrictions on the right to freedom of artistic expression and the right to freedom of association that go well beyond the requirements of proportionality and necessity (EGY 9/2015). The instruments of concern are the Law the censorship of audio-visual materials (Law 430/1955 amended by Law 38/1992); the Prime Ministerial Decree on the implementation regulation for audio-visual materials (162/1993); Minister of Culture Decree on censorship of artistic works (220/1976); and the Law on the Federation of Artistic Syndicates (Law 35/1978).

430. The Special Rapporteur expresses serious concern for the prohibition of artistic works under these instruments and urges the Government of Egypt to review and amend these instruments to bring them into compliance with, inter alia, the right to freedom of association provided under articles 22 and 8 of the International Covenant on Civil and Political Rights, ratified by Egypt in 1982, and the International Covenant on Economic, Social and Cultural Rights, ratified by Egypt in 1982, respectively.

431. Under the Law on the Federation of Artistic Syndicates (Law 35/1978), the Special Rapporteur is concerned that artists may be imprisoned for not joining the relevant professional syndicate (acting, film production, music) or obtaining a temporary work

permit, if they produce, participate in, or disseminate or exhibit their art. He reiterates that "an important component of the right to freedom of association is that no one may be compelled to belong to an association… This aspect is particularly relevant for unions or political parties since a direct interference in their membership may jeopardize their independence" (A/HRC/20/27, para. 55).

Draft Anti-terrorism Law

432. A number of draft amendments to the Egyptian anti-terrorism law were introduced that undermine several fundamental rights, including the right to freedom of peaceful assembly and association (EGY 11/2015). The Special Rapporteur acknowledges the lengthy reply from the Government. However, he expresses serious concern about the broad definition of "terrorism" and "terrorist acts" solely based on the goals of the organisation, which may result in the criminalization of organisations without factual evidence established by an independent judicial body.

433. The Special Rapporteur calls upon the Government of Egypt to "strictly and narrowly define the offence of terrorism in line with international law" and to "ensure that any restrictions on the rights to freedom of peaceful assembly and of association are prescribed by law, necessary in a democratic society, and proportionate to the aim pursued, and do not harm the principles of pluralism, tolerance and broadmindedness. Any restrictions should be subject to an independent, impartial, and prompt judicial review" (A/HRC/20/27, para. 84).

Israel

434. JUA 08/12/2015. Case no. ISR 9/2015. State reply: None. Alleged arbitrary detention and acts of intimidation, including death threats, against members of a human rights organization.

Observations

Response to communication

435. The Special Rapporteur regrets that he has not yet received a response to his communication sent on 8 December 2015 (ISR 9/2015) and reminds the Government of Israel that he considers responses to his communications as an important part of the cooperation of Governments with his mandate.

436. He calls upon States to cooperate fully with and assist him in the performance of his mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

437. In connection with the members of the human rights organization, Youth Against settlements, the Special Rapporteur reiterates his serious concern about their arbitrary detention and acts of intimidation, including death threats, against its members (ISR 9/2015). He reminds the Government of Israel of its negative obligation not to obstruct the exercise of the right to freedom of association and its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free from undue restrictions.

438. He calls on the Government of Israel to cooperate with his mandate and all of the other Special Procedures mandates in accordance with its international obligations.

Kuwait

439. JAL 17/04/2015. Case no. KWT 2/2015. State reply: 28/04/2015; 18/05/2015; 05/06/2015; 28/09/2015. Alleged arbitrary arrest, temporary detention and charges brought against a human rights defender, as well as an alleged act of reprisal for his cooperation with the United Nations.

440. JAL 13/08/2015. Case no. KWT 5/2015. State reply: 14/09/2015. Allegations of arrest and imprisonment of an individual related to the exercise of his legitimate rights to freedom of expression and opinion and freedom of association.

441. JAL 17/12/2015. Case no. KWT 7/2015. State reply: 11/02/2016. Allegations of sentencing and action taken to revoke the citizenship of a human rights defender and journalist.

Observations

Responses to communications

442. The Special Rapporteur thanks the Government of Kuwait for responding to all the communications sent during this reporting period. He is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

443. The recent cases in the State of Kuwait suggest that the space for the exercise of the rights to freedom of association and freedom of expression and opinion by civil society, including political dissent, in the country is restricted. Particularly, the criminalization of criticism of the Government or political leadership, including under article 25 of the Penal Code of Kuwait, which has been used in this regard.

444. In connection with the cases of the former representative of the People's Assembly of the State of Kuwait, Mr. Musallam Al-Barrak, and the human rights defender, Mr. Fairouz Abdullah Abd al-Kareem, the Special Rapporteur thanks the Government for its detailed replies of 14 September 2015 and 11 February 2016, respectively (KWT 5/2015 and KWT 7/2015). However, the Special Rapporteur reiterates his serious concern that the arrest, detention and conviction of Mr. Al-Barrak and Mr. Al-Kareem are related to the exercise of their rights to freedom of expression and opinion and freedom of association in light of alleged criticism of the Emir of Kuwait.

445. Regarding the case of Mr. Nawaf al-Hendal, the Special Rapporteur welcomes his acquittal and that of 10 other defendants on 1 March 2016 (KWT 2/2015). However, he remains seriously concerned that his prior arrest, detention and the charges issued against him were acts of intimidation and reprisal in response to his work at the UN Human Rights Council and monitoring protests in the country. He reminds that international law provides for a right to unhindered access to and communication with international bodies on matters of human rights and fundamental freedoms. This right is derived from the human rights to freedom of expression, association, assembly and movement contained in international human rights instruments and in customary international law. The right to unhindered access to and communication with international bodies is also explicitly recognised in the Declaration on Human Rights Defenders and is codified in specific provisions applying to certain UN human rights treaty bodies. Enjoyment of this right implies that those accessing or attempting to access or communicate with these bodies should not face any form of intimidation of reprisal for doing so. The Special Rapporteur urges the Government of Kuwait to respect these rights and to refrain from any reprisals against persons or organisations engaging with the United Nations within the field of human rights.

446. The Special Rapporteur takes this opportunity to restate that the term "association" denotes "any groups of individuals or any legal entities brought together in order to collectively act, express, promote, pursue or defend a field of common interests" and that the term refers to, among others, "civil society organizations, clubs, cooperatives, NGOs, religious associations, political parties, trade unions, foundations or even online associations" (A/HRC/20/27, paras. 51 and 52). He also reminds the Government of Kuwait of its negative obligation not to obstruct the exercise of the right to freedom of association and its positive obligation to ensure that civil society can carry out their legitimate work free from undue restrictions online as well as offline (A/HRC/RES/24/5, operational para. 2).

Morocco

447. JAL 04/05/2015. Case no. MAR 2/2015. State reply: 28/08/2015. Allégations de diverses restrictions au droit de réunion pacifique et d'association d'une organisation de défense des droits de l'homme.

448. JAL 23/07/2015. Case no. MAR 5/2015. State reply: None. Allégations concernant des entraves administratives restreignant les activités d'associations marocaines œuvrant pour la promotion du droit à la vie privée et des mesures d'intimidation exercées à l'encontre des défenseurs des droits de l'homme.

449. JAL 03/08/2015. Case no. MAR 6/2015. State reply: None. Allégations d'actes d'intimidations et de harcèlement contre des défenseurs des droits de l'homme et d'autres individus exerçant leur droit à la liberté d'association et de réunion pacifique au Sahara occidental.

Observations

Réponses aux communications

450. Le Rapporteur spécial remercie le Gouvernement du Maroc pour sa réponse datée du 28 août 2015 à sa communication MAR 2/2015. Il regrette cependant de ne pas avoir reçu de réponse à ses deux autres lettres. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat, selon les résolutions du Conseil des droits de l'homme 24/5 (2013), 21/16 (2012) et 15/21 (2010) et invite de ce fait les autorités à fournir dès que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

451. Le Rapporteur spécial note les informations fournies par le Gouvernement quant à la protection du droit à la liberté de réunion pacifique dans la législation marocaine. Le Rapporteur demeure néanmoins préoccupé par une tendance de restrictions de ce droit et du droit à la liberté d'association, notamment d'entraves visant des associations, ainsi que des défenseurs des droits de l'homme. Il souhaite faire référence au rapport conjoint qu'il a co-écrit avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires sur la bonne gestion des rassemblements (A/HRC/31/66). Ce rapport contient de nombreuses recommandations qui sont pertinentes quant à la situation dans le pays.

452. Le Rapporteur spécial réitère son inquiétude quant aux actes d'intimidation et de harcèlement de défenseurs des droits de l'homme et d'individus au Sahara occidental, par des autorités de l'Etat. Il demeure préoccupé au sujet de la situation difficile dans laquelle les défenseurs des droits de l'homme tentent d'exercer leurs droits à la liberté d'association et de réunion pacifique, ainsi que leur droit à la liberté d'expression au Sahara occidental.

453. Le Rapporteur spécial appelle les autorités à prendre toutes les mesures adéquates, notamment de nature législatives, pour assurer que les citoyens puissent exercer leurs droits

à la liberté d'association et de réunion pacifique dans un environnement favorable leur permettant de mener à bien leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

Visite de pays

454. Le Rapporteur spécial rappelle au Gouvernement du Maroc ses demandes de visite formulées en 2011 et 2013. Il est convaincu qu'une visite du pays lui permettrait de mieux comprendre le contexte dans lequel le droit de réunion pacifique et d'association y est exercé et d'engager un dialogue constructif avec le Gouvernement sur ces questions. A la lumière de l'esprit des résolutions 15/21 et 24/5 du Conseil des droits de l'homme qui appelle les Etats à répondre favorablement aux demandes de visite, il espère recevoir une réponse positive du Gouvernement.

Oman

455. JUA 27/03/2015. Case no. OMN 2/2015. State reply: None. Alleged acts of intimidation and reprisal, in the form of a travel ban, against an Omani human rights defender and blogger for his cooperation with the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

Observations

Response to communication

456. The Special Rapporteur regrets that he has not yet received a response to his communication sent on 27 March 2015 (OMN 2/2015) and reminds the Government of Oman that he considers responses to his communications as an important part of the cooperation of Governments with his mandate.

457. He calls upon States to cooperate fully with and assist him in the performance of his mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

458. In connection with the case of Mr. Mohammed Al-Fazari, the Special Rapporteur condemns the travel ban issued as an act of intimidation and reprisal against Mr. Al-Farzari for his cooperation with the Special Rapporteur during his country visit to Oman between 8 and 13 September 2014. He strongly regrets that the Government of Oman has not replied to this communication and he reminds the Government of its international obligation to cooperate with the mandate.

459. The Special Rapporteur takes the opportunity to call on the Government of Oman to implement the recommendations made in his country visit report, including to ensure that no one be criminalized for exercising their right to freedom of peaceful assembly and association, or subjected to threats or use of violence, harassment, persecution, intimidation or reprisals; as well as to adopt a new law on associations that complies with international human rights standards, including the right to freedom of association without delay (A/HRC/29/25/Add.1, para.70).

Saudi Arabia

460. JUA 19/10/2015. Case no. SAU 8/2015. State reply: None Alleged torture and imminent execution of a child without access to a fair trial and due process guarantees for participating in anti-Government protests.

461. JUA 11/12/2015. Case no. SAU 11/2015. State reply: None Alleged arbitrary convictions and sentences, including public flogging, of two bloggers and human rights defenders upheld on appeal for the exercise of their rights to freedom of expression and freedom of association.

Observations

Responses to communications

462. The Special Rapporteur regrets that he has not yet received responses to his communications sent on 19 October 2015 (SAU 8/2015) and 11/12/2015 (SAU 11/2015). He reminds the Government of Saudi Arabia that he considers responses to his communications as an important part of the cooperation of Governments with his mandate.

463. He calls upon States to cooperate fully with and assist him in the performance of his mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

464. In connection with the case of the juvenile, Mr. Dawood Hussain Al-Marhoon, who was subjected to excessive force during protests, was detained, tortured and sentenced to death, the Special Rapporteur sincerely regrets that the Government of Saudi Arabia has not replied to the Joint Urgent Appeal sent on 19 October 2015 (SAU 8/2015). He urges the Government to take all necessary measures to halt the execution of Mr. Al-Marhoon, which constitute an arbitrary execution.

465. The Special Rapporteur reminds the Government of Saudi Arabia that minority groups, such as children, are persons most at risk of discrimination, unequal treatment and harassment in the context of the exercise of the right to freedom of peaceful assembly and association (A/HRC/26/29). He takes this opportunity to remind the Government to ensure that any system of prior notification gives effect to the presumption in favour of assemblies, places narrow limits on the discretion of authorities to restrict assemblies, and incorporates a proportionality assessment (A/HRC/31/66, para. 28(a)).

466. Regarding the case of two human rights defenders and bloggers, Mr. Raef Badawi and Mr. Miklif bin Daham al Shammari, the Special Rapporteur strongly condemns their sentences to imprisonment and public flogging for their work and the exercise of their right to freedom of association.

467. He reminds the Government of Saudi Arabia of its obligation "to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law" (A/HRC/RES/24/5, operative para. 2).

Tunisia

468. JOL 24/07/2015. Case no. TUN 1/2015. State reply: None. Non-conformité présumée de divers articles d'un projet de loi organique relatif à la lutte contre le terrorisme et à la répression du blanchiment d'argent avec un certain nombre de dispositions du Pacte international relatif aux droits civils et politiques.

Observations

Réponses aux communications

469. Le Rapporteur spécial regrette de ne pas avoir reçu de réponse à sa lettre du 24 juillet 2015. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat, selon les résolutions du Conseil des droits de l'homme 24/5 (2013), 21/16 (2012) et 15/21 (2010) et invite de ce fait les autorités à fournir dès que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

470. Le Rapporteur spécial réitère sa vive préoccupation quant à la législation relative à la lutte contre le terrorisme et à la répression du blanchiment d'argent, qui pourrait donner lieu à un usage abusif pour restreindre les libertés fondamentales des citoyens, notamment à cause d'une définition trop large du terme « terrorisme ». Il souhaite rappeler au Gouvernement que toute mesure visant à lutter contre le terrorisme et à préserver la sécurité nationale doit être conforme aux obligations de l'Etat au titre du droit international, notamment le droit international des droits de l'homme. Les mesures doivent répondre aux critères de nécessité et de proportionnalité et ne doivent pas entraver les activités et la sécurité des individus, des groupes et des organes de la société qui œuvrent à la promotion et à la défense des droits de l'homme.

Visite de pays

471. Le Rapporteur spécial remercie le Gouvernement tunisien de son invitation à effectuer une visite de pays.

VII. Europe and Central Asia region

472. During the present reporting period, the Special Rapporteur sent 27 communications to 13 countries in the Europe and Central Asia region. The majority of the communications concerned disproportionate restrictions on the right to freedom of association and several others related to draft laws or legislation, which were considered as in breach of the right to freedom of peaceful assembly and association.

473. The Special Rapporteur reiterates his concern for associations, including human rights organisations and minority groups, including religious groups, who are subject to persecution for their work. He highlights the use of measures, such as criminalization, detention and violence being utilized to restrict the exercise of the right to freedom of peaceful assembly and association of members of these groups.

474. He also emphasizes the use of legislative measures, including security and counterterrorism legislation, adopted, which disproportionately restricts the right to freedom of association of civil society and human rights defenders in the region. The Special Rapporteur urges States to ensure that all new legislation adopted is compliant with the fundamental rights to freedom of peaceful assembly and association, in accordance with the International Convention on Civil and Political Rights, the Universal Declaration of Human Rights and the European Convention on Human Rights, where applicable.

Armenia

475. JAL 03/07/2015. Case no. ARM 1/2015. State reply: 31/08/2015; 06/10/2015. Alleged excessive use of force by the police to disperse a peaceful demonstration in Yerevan, and the subsequent arrest and detention of demonstrators, journalists and human rights monitors.

Observations

Response to communication

476. The Special Rapporteur thanks the Government of Armenia for responding to the communication sent during this reporting period.

477. In connection with the excessive use of force used to disperse peaceful protestors in Yerevan, the Special Rapporteur acknowledges the replies of the Government of Armenia of 31 August 2015 and 6 October 2015 (ARM 1/2015). However, he remains concerned about the possible use of force by the police and requests that the results of the preliminary investigation of the criminal case be made publicly available and shared when it is complete.

478. He calls on the Government of Armenia to ensure that the use of force by police and security forces are restricted by the principles of legality, precaution, necessity, proportionality and accountability, and takes this opportunity to refer the Government to his recent Report on the proper management of assemblies (A/HRC/31/66).

479. Additionally, he reaffirms that while assemblies can be subject to certain restrictions, which are prescribed by law and are necessary in a democratic society, there should be a presumption in favour of holding peaceful assemblies and prohibitions should be measures of last resort. In this context, he believes that a swift notification procedure to hold a peaceful assembly complies better with international standards, whereas other requirements can result in undue interference (A/HRC/20/27, para.28).

Azerbaijan

480. JAL 29/05/2015. Case no. AZE 2/2015. State reply: 11/09/2015. Alleged pre-trial detention, charges and sentencing of four human rights defenders as a result of their legitimate human rights work.

481. JUA 19/08/2015. Case no. AZE 3/2015. State reply: 11/09/2015. Alleged detention and sentencing of two human rights defenders as a result of their legitimate human rights work.

482. JAL 31/08/2015. Case no. AZE 4/2015. State reply: 30/10/2015. Alleged murder of an Azerbaijani journalist and Chairperson of the Institute for Reporters' Freedom and Safety allegedly for criticizing a footballer on social media.

483. PR 02/06/2015. "Azerbaijani activists must be freed before the Baku 2015 Games – UN expert"

484. PR 20/08/2015. "Deeply distressing – UN experts condemn latest prison sentencing of rights defenders in Azerbaijan"

Observations

Responses to communications

485. The Special Rapporteur thanks the Government of Azerbaijan for responding to all the communications sent during this reporting period.

486. The Special Rapporteur welcomes the recent release of several prominent human rights activists. On 17 March 2016, Mr. Rasul Jafarov and Mr. Anar Mammadli were released as part of a presidential pardon, and no more charges are reportedly pending against them. On 28 March 2016, Mr. Intigam Aliyev was released after the Supreme Court decided to convert his 7.5-year prison sentence to a five-year suspended term. On 25 May 2016, the Supreme Court released Ms. Khadija Ismail on a 3.5-year probation with a 2-year ban on professional activities (she spent 1.5 years in prison). The Special Rapporteur calls on the authorities to lift this ban.

487. Regarding the case of Ms. Leyla Yunus and Mr. Arif Yunusov, the Special Rapporteur welcomes the suspension of their sentence and their subsequent release from detention. However, he remains concerned at the charges that remain outstanding against them, and the limited nature of their freedom. Furthermore, he remains very concerned for their health conditions, which are reported to have seriously deteriorated during their period in detention, with allegations of the failure to provide them with adequate and independent medical assistance whilst detained.

488. In relation to the case of the journalist, Mr. Rasim Aliyev, the Special Rapporteur strongly condemns the killing of Mr. Aliyev and acknowledges receipt of the Government's reply of 30 October 2015 (AZE 4/2015). He expresses grave concern that Mr. Aliyev was killed for his journalism and for exercising his right to freedom of association and freedom of expression and opinion. The Special Rapporteur appreciates the information provided by the Government in relation to the ongoing investigation into Mr. Aliyev's killing and would appreciate an update on the outcome of the investigation, including whether anyone has been held accountable for his killing.

489. The Special Rapporteur remains serious concerned about several dozens of individuals still in detention because of the exercise of their rights to freedom of peaceful assembly and/or association. He urges the authorities to release them without delay, drop all outstanding charges against them and lift all the restrictions imposed on them. He further urges the authorities to bring its legislation regulating the operations of, and use of foreign funds by, NGOs in compliance with international human rights norms and standards.

490. In this regard, the Special Rapporteur reminds the Government of Azerbaijan of its positive obligation to ensure that civil society, including human rights defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Country visit

491. The Special Rapporteur thanks again the Government of Azerbaijan for its invitation, and hopes to be able to undertake a visit in September 2016.

France

492. JOL 28/12/2015. Case no. FRA 7/2015. State reply: 26/02/2016. Analyse de la loi n° 2015-1556 du 30 novembre 2015 relative aux mesures de surveillance des communications électroniques internationales et de la loi n°2015-1501 du 20 novembre 2015 prorogeant

l'application de la loi n° 55-385 du 3 avril 1955 relative à l'état d'urgence et renforçant l'efficacité de ses dispositions, au regard des obligations internationales de la France en matière de droits de l'homme.

Observations

Réponse à la communication

493. Le Rapporteur spécial remercie le Gouvernement français pour sa réponse à la communication en date du 3 février 2015.

494. Au sujet de la communication envoyée concernant la loi n° 2014-1353 du 13 novembre 2014 en matière de terrorisme, le Rapporteur spécial remercie le Gouvernement pour l'explication détaillée et substantielle reçue. Néanmoins, il demeure préoccupé par les effets de cette législation anti-terroriste et ses conséquences sur l'exercice du droit de réunion pacifique et la liberté d'opinion et d'expression. Il rappelle à l'Etat son obligation de mener la lutte anti-terroriste dans le respect de ses responsabilités internationales en matière de droits de l'homme et de veiller à ce que toute mesure prise n'entrave pas les activités ou la sécurité des individus, des groupes et des organes de la société qui œuvrent à la promotion et à la défense des droits de l'homme.

Italy

495. JUA 28/08/2015. Case no. ITA 4/2015. State reply: None. Allegations of the arrest of a lawyer and human rights defender, as well as the imminent risk of his extradition to Algeria.

Observations

Response to communication

496. The Special Rapporteur regrets that he has not yet received a response to his communication sent on 28 August 2015 (ITA 4/2015) and reminds the Government of Italy that he considers responses to his communications as an important part of the cooperation of Governments with his mandate.

497. In the case of the co-founder and Director of the human rights organization Alkarama, Mr. Rachid Mesli, the Special Rapporteur welcomes his release following the ruling by the Turin Court of Appeal. The Court recognised Mr. Mesli's important and peaceful work in the defence of human rights, as well as the high risk of him facing torture if he were to be extradited to Algeria. However, he reiterates his concern about the arrest of Mr. Mesli, and his physical safety and psychological well-being had he been returned to Algeria (ITA 4/2015). Mr. Mesli was previously been detained incommunicado, beaten, threatened and convicted of having "encouraged terrorism" in Algeria. He subsequently received a presidential pardon. After corresponding with victims of human rights violations in Algeria, he was once again charged with terrorist offences and later sentenced to 20 years imprisonment in absentia by an Algerian court. Whilst travelling to Italy with his family for a holiday in August 2015, Mr. Mesli was arrested at the Swiss-Italian border for three days, after which an Italian judge granted Algeria 10 days to make a request for extradition.

498. The Special Rapporteur refers the Government of Italy to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which it is a party. The Convention that "[n]o State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be

in danger of being subjected to torture," which, in the case of Mr. Mesli would be reportedly due to his peaceful and legitimate activities in promoting human rights in Algeria.

499. He refers to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provides that "[f]or the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights." Moreover, he calls on all States, including Italy to take all necessary steps to secure the rights to freedom of peaceful assembly and association, as per article 21 and 22 of the International Covenant on Civil and Political Rights.

Kazakhstan

500. JUA 02/04/2015. Case no. KAZ 1/2015. State reply: 22/05/2015. Alleged arbitrary arrest and detention of an environmental civil society activist.

501. JUA 31/08/2015. Case no. KAZ 2/2015. State reply: 12/10/2015. Alleged repeated arrest and detention of a lawyer and human rights defender for his role in convening a peaceful assembly and denouncing corruption cases.

502. JAL 06/10/2015. Case no. KAZ 3/2015. State reply: 26/10/2015. Allegations of potential human rights violations as a result of a draft law relating to the activities of non-governmental organizations which, if adopted with no further changes, may seriously compromise the independence and existence of civil society organizations in Kazakhstan.

503. JAL 15/10/2015. Case no. KAZ 4/2015. State reply: 26/10/2015. Allegations of the imminent adoption of draft law on non-governmental organizations that may result in violations to freedom of association and freedom of expression.

504. PR 01/09/2015. "UN expert raises alarm as Kazakhstan jails twice a rights defender for convening a peaceful assembly"

505. PR 15/10/2015. "New draft law threatens the independence and existence of NGOs in Kazakhstan, warns UN rights expert"

Observations

Responses to communications

506. The Special Rapporteur thanks the Government of Kazakhstan for responding to all the communications sent during this reporting period.

507. In connection with the case of the human rights defender, Mr. Saken Baikenov, the Special Rapporteur acknowledges receipt of the Government's detailed response of 22 May 2015 (KAZ 1/2015). However, the Special Rapporteur remains concerned about arrest, detention and charges against Mr. Baikenov are in retaliation for his human rights work and the exercise of his rights to freedom of association and expression.

508. Regarding the case of lawyer and human rights defender, Mr. Ermek Narymbaev, the Special Rapporteur acknowledges receipt of the Government's detailed response of 12 October 2015 (KAZ 2/2015). He reiterates his concern about the repeated arrest and detention of Mr. Narymbaev for his participation in a peaceful rally and the exercise of his rights to freedom of assembly and association and freedom of expression and opinion (PR 01/09/2015).

509. The Special Rapporteur reminds the Government of Kazakhstan of its obligation "to respect and fully protect the rights of all individuals to… associate freely, online as well as offline… including human rights defenders… seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law (A/HRC/RES/24/5, operative para. 2).

Draft amendments to laws on public associations

510. The draft "Law on the introduction of amendments and addenda to several legislative acts of the Republic of Kazakhstan relating to activities of non-governmental organizations" makes several amendments to laws regulating NGOs in the country. The Special Rapporteur is concerned by provisions that may compromise the independence of civil society organisations, including restrictions on access to funding and requirements to register information about NGOs on a Government database (KAZ 4/2015).

511. He acknowledges receipt of the Government's reply and appreciates the efforts of the Government to bring the law on public associations into line with international norms and standards. However he concludes that the practices outlined in the draft law appear to add supplementary bureaucratic obstacles and exacerbate negative perceptions of the role of associations (PR 15/10/2015). He recalls that the ability for associations to access funding and resources is an essential and vital part of the right to freedom of association (A/HRC/20/27, para 67).

512. The Special Rapporteur finally recalls the constructive dialogues during the mission he undertook in January 2015, and calls on the authorities to implement all the recommendations he put forward in his country visit report (A/HRC/29/25/Add.2). In this regard, he remains ready to provide any support the authorities may require to implement these recommendations.

Kyrgyz Republic

513. JAL 30/07/2015. Case no. KGZ 2/2015. State reply: None. Allegations of increased targeting of human rights defenders and civil society organisations, by both State and non-State actors, including in the context of retrogressive draft legislations and amendments, for their peaceful and legitimate human rights work.

514. JAL 21/09/2015. Case no. KGZ 3/2015. State reply: 18/01/2016. Alleged persecution against religious minorities in the Kyrgyz Republic, namely the raid and closure of a Baptist church and the arbitrary detention and torture of Jehovah's witnesses.

515. JAL 22/12/2015. Case no. KGZ 4/2015. State reply: None. Alleged ban imposed against a human rights defender from entering the Kyrgyz Republic for her peaceful and legitimate human rights work.

Observations

Responses to communications

516. The Special Rapporteur thanks the Government of Kyrgyz Republic for its replies and urges it to respond to the grave allegations contained in the letters sent on 30 July 2015 (KGZ 2/2015) and 22 December 2015 (KGZ 4/2015), as soon as possible.

517. He recalls the importance of responding to his communications as part of the Government's cooperation with his mandate, in accordance with Human Rights Council

resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

Draft Law on Introducing Amendments and Changes to Some Legislative Acts of the Kyrgyz Republic ("Foreign agents" Law)

518. The Special Rapporteur once again reiterates his concern that the draft Law on Introducing Amendments and Changes to Some Legislative Acts of the Kyrgyz Republic ("Foreign agents" Law) may arbitrarily restrict the right to freedom of association and obstruct the legitimate work of organisations, including human rights organisations, in the country (KGZ 2/2015). He regrets that the draft "foreign agents" Law was passed by the parliament in the preliminary reading in early June 2015, despite widespread criticism.

519. The draft law requires non-commercial, non-governmental organisations involved in "political activities" and receiving funds by foreign sources to register as "foreign agents". It permits further control of NGOs and civil society organisations, including human rights organisations, in the country and criminalises NGOs deemed to "incite citizens to refuse to fulfil their civic duties" with a sentence of up to three years imprisonment. The Special Rapporteur expresses grave concern about the potential impact of the law on civil society, including human rights organisations.

Draft Bill on the formation of a positive attitude toward non-traditional forms of sexual relations

520. The Special Rapporteur reiterates his grave concerns regarding the draft Bill on the formation of a positive attitude toward non-traditional forms of sexual relations and regrets that the Kyrgyz Government has not responded to the communication sent on 30 July 2015 (KGZ 2/2015). The draft Bill may have discriminatory consequences and negative impacts it could have on the peaceful and legitimate work of human rights defenders. The Bill would amend several pieces of legislation, including the Law on Peaceful Assembly, and introduce a range of criminal and administrative sanctions on persons contributing towards the creation of "a positive attitude toward non-traditional sexual orientation."

521. The Special Rapporteur reiterates his concern at the detrimental effect of the Bill on the peaceful and legitimate work of human rights defenders in the Kyrgyz Republic who are working to protect and promote the rights of the LGBTI community. He reminds the Government of the Kyrgyz Republic of its obligation to safeguard the human rights of LGBTI people in accordance with international human rights law based on Universal Declaration of Human Rights, which, in article 1, unequivocally reads: "All human beings are born free and equal in dignity and rights" (A/HRC/26/29, para. 20). He reminds the Government of the Kyrgyz Republic of the Committee on the Elimination of Discrimination Against Women recommendation, which urges the State to ensure the draft Bill is not adopted (CEDAW/C/KGZ/CO/4, para. 10(a)), as well as the reports of the Human Rights Committee regarding violence perpetrated against LGBTI people and a failure to address such violence (CCPR/C/KGZ/CO/C, para. 9).

522. The Special Rapporteur reiterates his grave concerns about the increased targeting of human rights defenders and civil society organisations, by both State and non-State actors, in the Kyrgyz Republic. In particular, he refers to the case of three human rights defenders, Mr. Dimitry Kabak, Mr. Khusanbay Saliev and Mr. Valerian Vakhitov, and several human rights organisations; the Human Rights Advocacy Centre, Labrys and Human Rights Watch (KGZ 2/2015). He regrets that the Government has not responded to the communication sent. He reiterates his grave concerns about the increased level of harassment against civil society and human rights defenders in the country.

523. The Special Rapporteur reminds the Government of the Kyrgyz Republic of its obligation "to respect and fully protect the rights of all individuals to... associate freely, online as well as offline... including human rights defenders... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law (A/HRC/RES/24/5, operative para. 2).

524. In connection with the case of Ms. Mihra Rittmann, the Director of Human Rights Watch's Bishkek Office, the Special Rapporteur regrets that he has not received a response from the Government of the Kyrgyz Republic (KGZ 4/2015). The case concerns a refusal-of-entry order imposed on Ms. Rittmann for her human rights work, including at Human Rights Watch. The Special Rapporteur calls on the Government of the Kyrgyz Republic to respond to the Joint Allegation Letter sent on 22 December 2015 and in addition requests further information on whether Ms. Rittmann has subsequently been granted access to the country.

525. In relation to the case of religious minority groups, the Elchilik Jiyini Church and Jehovah's Witnesses, the Special Rapporteur acknowledges the reply of the Government of 18 January 2016 (KGZ 3/2015). He requests the Government to provide additional information about any investigations or inquiries conducted regarding the criminal prosecutions against Jehovah's Witnesses or their associations, as well as information on developments in ongoing cases. The Special Rapporteur reminds the Government that minority groups, such as religious groups, are persons most at risk of discrimination, unequal treatment and harassment in the context of the exercise of the right to freedom of peaceful assembly and association (A/HRC/26/29).

526. He recalls that the term "association" denotes "any groups of individuals or any legal entities brought together in order to collectively act, express, promote, pursue or defend a field of common interests" and that the term refers to, among others, "civil society organizations, clubs, cooperatives, NGOs, religious associations, political parties, trade unions, foundations or even online associations" (A/HRC/20/27, paras. 51 and 52). He urges the Government to recognize that the rights to both freedom of peaceful assembly and association play a significant role in the development and survival of meaningful democratic systems since they allow for an environment where minority or dissenting views or beliefs are respected and enable dialogue, pluralism, tolerance and broadmindedness.

527. The Special Rapporteur takes this opportunity to remind the Government of the Kyrgyz Republic of its positive obligation to ensure to promote a safe and enabling environment for individuals and groups to exercise their rights to freedom of peaceful assembly, of expression and of association, recalls that all States have the responsibility in all circumstances, to promote, respect and protect human rights and to prevent human rights violations, including extrajudicial, summary or arbitrary executions, arbitrary arrest and detention, enforced disappearances, torture and other cruel, inhuman or degrading treatment or punishment, and sexual violence (A/HRC/RES/31/37, para. 1).

Country visit

528. The Special Rapporteur thanks again the Government of the Kyrgyz Republic for its invitation to conduct an official visit to the country.

Moldova (Republic of)

529. JAL 07/12/2015. Case no. MDA 5/2015. State reply: 21/01/2016. Alleged stigmatization and criminal proceedings against civil society associations and human rights defenders in direct response to their legitimate and peaceful human rights work in the Transnistrian region.

Observations

Response to communication

530. The Special Rapporteur thanks the Government of Moldova for responding to the communication sent during this reporting period.

531. In connection with the criminal proceedings initiated against the human rights association, Promo-LEX, in the region of Transnistria, the Special Rapporteur notes the State's reply of 21 January 2016 (MDA 5/2015). However, he remains concerned about the situation of human rights organisations in the region and acknowledges the measures taken by the Government of Moldova in this regard. Additionally, he would appreciate information about whether a reply has subsequently been received from Political Representatives in Tiraspol relating to the case and whether there has been any dialogue on such matters.

532. The Special Rapporteur takes this opportunity to remind the Government of Moldova that it has a positive obligation to ensure a safe and conducive environment to the free exercise of the right of association, as enshrined in the International Covenant on Civil and Political Rights, acceded by the Republic of Moldova on 26 January 1973 (A/HRC/29/25/Add.3, paras. 44, 45 and 46).

Montenegro

533. JOL 02/03/2015. Case no. MNE 1/2015. State reply: 29/04/2015. Alleged fast-tracked reform of the Public Assembly Act adopted by the Parliament, which allegedly excessively and disproportionately limits the rights to freedom of peaceful assembly and freedom of expression.

534. JAL 10/12/2015. Case no. MNE 2/2015. State reply: 16/01/2016. Alleged situation of intimidation and violence against journalists and media outlets, as well as in the context of protests in the country.

Observations

Responses to communications

535. The Special Rapporteur thanks the Government of Montenegro for responding to all the communications sent during this reporting period.

Reform of the Public Assembly Act

536. Amendments were made to the Public Assembly Act through a fast-tracked procedure to address gaps in the law and the Special Rapporteur notes the Government's reply of 29 April 2015 in response to concerns of provisions that excessively and disproportionately limit the rights to freedom of assembly and freedom of expression (MNE 1/2015). He remains concerned that provisions relating to blanket bans, geographical restrictions, mandatory notifications and authorizations based on the message of assemblies

or on traffic flow considerations are intrusive restrictions that exceed the criteria of necessity and proportionality.

537. The Special Rapporteur takes this opportunity to remind the Government to ensure that any system of prior notification gives effect to the presumption in favour of assemblies, places narrow limits on the discretion of authorities to restrict assemblies, and incorporates a proportionality assessment (A/HRC/31/66, para. 28(a)). Also, he emphasizes that the "time, place and manner" restrictions should never be used to undermine the message or expressive value of an assembly or to dissuade the exercise of the right to freedom of assembly (A/HRC/31/66, para. 34).

538. Regarding the Joint Allegation Letter sent on 10 December 2015 about the intimidation and violence of journalists and media outlets, including at protests, as well as measures of arrest and prosecution (MNE 2/2015). The Special Rapporteur notes the reply of the Government of 16 January 2016. However, he remains concerned about the details of the individual cases outlined that were not directly addressed in the State's reply and would appreciate additional information in this regard. He takes this opportunity to remind the Government of Montenegro to protect the rights to freedom of peaceful assembly and association, and freedom of expression and opinion.

539. He reaffirms that the rights to freedom of peaceful assembly and of association are necessary elements for the possible emergence and sustainability of effective democratic systems. In this regard, States should therefore make every effort to facilitate those rights. Moreover, he stresses that it is the obligation of States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline (A/HRC/RES/24/5, operational para. 2).

Norway

540. JAL 24/07/2015. Case no. NOR 1/2015. State reply: 22/09/2015. Alleged investigation of a human rights organization and its President for their peaceful and legitimate human rights activities.

Observations

Response to communication

541. The Special Rapporteur thanks the Government of Norway for responding to the communication sent during this reporting period.

542. In the case of the human rights organization, the Global Network for Rights and Development, and its President, Mr. Loai Deeb, the Special Rapporteur thanks the Government of Norway for its reply (NOR 1/2015), and looks forward to being kept informed of all developments about this case.

Russian Federation

543. JAL 06/03/2015. Case no. RUS 1/2015. State reply: 20/05/2015. Alleged killing of a political opposition leader in Moscow for his peaceful and legitimate political activities.

544. JAL 07/08/2015. Case no. RUS 4/2015. State reply: 16/11/2015. Alleged targeting and criminalization of environmental human rights defender and the inclusion on the "foreign agent" list of a human rights organisation in Ozersk, Chelyabinsk region in an attempt to hinder the work the organisation's work.

545. JAL 11/11/2015. Case no. RUS 6/2015. State reply: 21/12/2015. Alleged charges against 16, and sentencing of seven, Jehovah's Witnesses, as well as the closure of their local organisations and prohibition on their religious literature for their peaceful religious activities.

546. JAL 25/02/2016. Case no. RUS 2/2016. State reply: 23/05/2016 (not yet available). Alleged liquidation of a human rights organization for its legitimate human rights activities.

Observations

Responses to communications

547. The Special Rapporteur thanks the Government of Russia for its replies to all his communications sent during the reporting period.

Law on Non-commercial Organisations which Carry Functions of Foreign Agents

548. In the case of Ms. Nadezdha Kutepova, director of the human rights organization Planet of Hopes, the Special Rapporteur thanks the Government for its substantial response of 16 November 2015 regarding the listing of the organization as a "foreign agent" by the Ministry of Justice and criminalization of Ms. Kutepova (RUS 4/2015). However, he remains concerned with the listing of associations in the Russian Federation for the reasons outlined below.

549. The Special Rapporteur reiterates his concerns about the definitions under the Law on Non-commercial Organizations which Carry Functions of Foreign Agents (the Law) and restates his concerns from his previous observations report regarding the apparent violation of fundamental rights and freedoms, including the right to freely associate (A/HRC/29/25/Add.3, paras. 436 and 437). He acknowledges that the provisions of the Law are based on a presumption that non-profit organizations act fairly and within the law but remains gravely concerned about the use of such definitions to single out associations that allegedly carry out political activities and is worried about the targeting of human rights organizations. In this context, he shares the observation of the Human Rights Committee that considers the definition of "political activity" in the Law as very broadly construed, allowing authorities to register a wide range of non-governmental organizations as "foreign agents", without their consent or a court decision (CCPR/C/RUS/CO/7, para. 22).

550. In this context, the Special Rapporteur warns against justifications for excessive intrusive methods based on the need for greater transparency within the civil society sector and emphasizes the highly detrimental impact of such legislation on human rights organisations. He reminds the State of its a negative obligation not to obstruct the exercise of the right to freedom of association and its positive obligation to ensure that civil society, including human rights defenders, in the Russian Federation can carry out their legitimate work free from undue restrictions. Finally, he calls on the Government to ensure that the Law and its application are consistent with international human rights law, including the right to freedom of association, including, inter alia, the International Covenant on Civil and Political Rights ratified by the Federation of Russia in 1973.

551. In the case of Mr. Boris Nemtsov, a prominent political opposition leader, the Special Rapporteur notes the response of the Government of 20 May 2015 and strongly condemns his killing (RUS 1/2015). He restates his request for the authorities to publicly share the results of the criminal investigation into Mr. Nemtsov's murder, and any relevant judicial inquiries. He would also appreciate additional information about how the relevant investigation body of the Investigative Committee of the Russian Federation operated in accordance with international standards of impartiality, effectiveness and independence,

including in relation to its composition and procedures. The Special Rapporteur emphasizes that the right to life should be guaranteed by States to all individuals under all circumstances and at all times, including in the context of the exercise of the rights to freedom of association, as prescribed by article 3 of the Universal Declaration of Human Rights.

552. Regarding the alleged violations perpetrated against Jehovah's Witnesses, the Special Rapporteur is grateful for the State's reply of 21 December 2015 (RUS 6/2015). He would appreciate additional information about any investigations or inquiries conducted in relation to the criminal prosecutions against Jehovah's Witnesses or their associations in these cases, as well as information on developments in ongoing cases. He calls on the Government to ensure that the relevant laws governing religious organisations comply with international human rights law on freedom of association.

553. He recalls that the term "association" denotes "any groups of individuals or any legal entities brought together in order to collectively act, express, promote, pursue or defend a field of common interests" and that the term refers to, among others, "civil society organizations, clubs, cooperatives, NGOs, religious associations, political parties, trade unions, foundations or even online associations" (A/HRC/20/27, paras. 51 and 52). He urges the Government to recognize that the rights to both freedom of peaceful assembly and association play a significant role in the development and survival of meaningful democratic systems since they allow for an environment where minority or dissenting views or beliefs are respected and enable dialogue, pluralism, tolerance and broadmindedness.

554. The Special Rapporteur takes this opportunity to remind the Government of the Russian Federation of its positive obligation to ensure to promote a safe and enabling environment for individuals and groups to exercise their rights to freedom of peaceful assembly, of expression and of association, recalls that all States have the responsibility in all circumstances, to promote, respect and protect human rights and to prevent human rights violations, including extrajudicial, summary or arbitrary executions, arbitrary arrest and detention, enforced disappearances, torture and other cruel, inhuman or degrading treatment or punishment, and sexual violence (A/HRC/RES/31/37, para. 1).

Country visit

555. The Special Rapporteur reminds the Government of his pending requests to visit the country, as indicated by his letter sent in 2011, 2012 and 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

The Former Yugoslav Republic of Macedonia

556. JUA 20/05/2015. Case no. MKD 2/2015. State reply: 30/07/2015; 18/09/2015. Alleged arbitrary detention and prosecution of a large number of individuals in the context of peaceful protests in the city of Skopje.

Observations

Response to communication

557. The Special Rapporteur thanks the Government of Macedonia for responding to the communication sent during this reporting period.

558. Regarding the large number of protestors detained and prosecuted in Skopje, the Special Rapporteur thanks the Government's for its detailed responses of 30 July 2015 and 18 September 2015 (MKD 2/2015). However, he expresses concern about the excessive use of force by police used to disperse the protestors and their subsequent arrest, detention and the charges issued against them.

559. The Special Rapporteur takes this opportunity to remind the Government of Macedonia that the right to freedom of peaceful assembly is held by each individual participating in an assembly and acts of sporadic violence or offences by some should not be attributed to others whose intentions and behaviour remain peaceful in nature. In this regard, he refers the Government to his recent report on the proper management of assemblies (A/HRC/31/66) and stands ready to provide technical assistance to ensure that the State's norms comply with international human rights norms and standards governing the right to freedom of assembly.

United Kingdom of Great Britain and Northern Ireland

560. JAL 22/12/2015. Case no. GBR 4/2015. State reply: 17/02/2016; 10/03/2016. Allegedly a number of provisions contained in a draft bill, namely the draft "Investigatory Powers Bill", may unduly interfere with the right to privacy, freedom of opinion and expression, and freedom of peaceful assembly and association, both within and outside the United Kingdom.

561. PR 11/01/2016. "UK: UN experts urge review of surveillance bill threatening freedom of expression"

Observations

Response to communication

562. The Special Rapporteur thanks the Government of the United Kingdom for responding to the communication sent during this reporting period, in particular the detailed response of 10 March 2016.

Investigatory Powers Bill

563. In relation to the Draft Investigatory Powers Bill, the draft Bill aims to protect privacy and security by improving transparency and changing the way investigatory powers are authorised and overseen. The Special Rapporteur highlighted concerns about overly broad definitions and disproportionate procedures to authorize surveillance and data retention in the draft Bill (PR 11/01/2016), as explained in his submission to the Joint Committee on the Draft Investigatory Powers Bill, he notes with appreciation of the consideration of his submission by the Joint Committee on the Draft Investigatory Powers Bill in its subsequent Report.[5]

[5] UK Joint Committee on the Draft Investigatory Powers Bill, Draft Investigatory Powers Bill Report, (2015-16, HL 93, HC 651).

564. A number of amendments have subsequently been made to the draft Bill, and the Investigatory Powers Bill (the Bill) is now before the Parliament. The Special Rapporteur emphasizes his ongoing concern for the potential impact of the Bill on the right to freedom of peaceful assembly and freedom of association, and calls on the Government to ensure that the surveillance and privacy measures in the Bill protect these fundamental rights. In particular, he expresses concern for the collection of data, in particular of peaceful protestors and individuals associating online, and how this information may be used. He calls on the Government to ensure a human rights based approach in the Bill and to increase the accountability of intelligence services (A/HRC/23/39/Add.1).

Country visit

565. The Special Rapporteur thanks the Government of the United Kingdom for inviting him to undertake a follow-up mission, from 18 to 21 April 2016, subsequent to the country visit he conducted from 14 to 23 January 2013. A full report on his findings will be presented at the 35th session of the Human Rights Council. His end-of-visit statement can be found here: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19854&LangID=E

Uzbekistan

566. JAL 10/12/2015. Case no. UZB 3/2015. State reply: 12/02/2016. Allegations of arrest, beatings, judicial investigation and harassment against human rights defender, allegedly for his legitimate human rights work.

567. JUA 22/12/2015. Case no. UZB 4/2015. State reply: 21/01/2016. Alleged arbitrary arrest, incommunicado detention and charging of a human rights defender and journalist for his legitimate human rights work.

Observations

Responses to communications

568. The Special Rapporteur thanks the Government of the Uzbekistan for responding to the communications sent during this reporting period.

569. In the case of Mr. Dmitry Tikhonov, a member of the Human Rights Defenders Alliance of Uzbekistan, the Special Rapporteur reiterates his concern about Mr. Tikhonov's arrest, sentencing and detention, including his treatment during detention (UZB 3/2015). The Special Rapporteur would be grateful for more information concerning the legal grounds for the detention and sentencing of Mr. Tikhonov and how these measures are compatible with international human rights norms on the right to freedom of association, including, inter alia, the International Covenant on Civil and Political Rights. He would also appreciate detailed information regarding the action taken in response to unlawful actions of officials against Mr. Tikhonov mentioned in the State reply received on 12 February 2016.

570. The Special Rapporteur notes the State reply of 21 January 2016, in the case of Mr. Uktam Pardayev, chairperson of the Independent Human Rights Society in Uzbekistan. He restates his concern regarding the arrest, detention and charges against Mr. Pardayev, and their compatibility with international human rights norms on the right to freedom of association. He would appreciate further information regarding any investigations or inquiries conducted in regard to Mr. Pardayev's trial.

571. The Special Rapporteur reminds the authorities of the request from his last Observations Report (A/HRC/29/25/Add.3, para. 97) and seeks additional information about the measures taken to ensure everyone in Uzbekistan can exercise the right to freedom of association and can carry out their peaceful and legitimate human rights activities without fear of restrictions or criminalization of any sort.

572. In this regard, he reminds the Government of Uzbekistan of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation or harassment of any sort.

Country visit

573. The Special Rapporteur reminds the Government of his pending requests to visit the country, as indicated by his letter sent in 2011 and 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

VIII. Other

574. OL 07/12/2015. OTH 10/2015. Reply: None. Alleged stigmatization and criminal proceedings against a civil society association and its members.

575. OL 23/02/2015. OTH 4/2016. Reply: 23/03/2016. Letter expressing concerns about Financial Action Task Force's Recommendation 8 on combating the abuse of non-profit organizations.

576. PR 13/05/2015. "Discriminated and made vulnerable: Young LGBT and intersex people need recognition and protection of their rights International Day against Homophobia, Biphobia and Transphobia"

577. PR 18/05/2015. "A central role for a civil society is the only way to guarantee inclusive post-2015 development goals"

578. PR 18/06/2015. "Natural resources sector: UN expert calls for binding human rights treaty for corporations"

579. PR 22/10/2015. "Statement by United Nations experts on the ECLAC's negotiation of a regional instrument on environmental democracy"

580. PR 22/10/2015. "UN experts urge Latin America and the Caribbean to adopt trend-setting agreement on environmental democracy"

581. PR 27/10/2015. "UN expert: Promote civil society by elevating its treatment to the same level as business"

582. PR 09/12/2015. "As the Covenants turn 50, it is time to turn norms into action – UN experts"

583. PR 09/03/2016. "UN experts provide a roadmap to avoid human rights violations during protests"